

## Extra Ordinary Part - VI / 2016

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Extra No.1	27-01-2016	Legislative & Parliamentary Affairs Department
Extra No.2	11-03-2016	Legislative & Parliamentary Affairs Department
Extra No.3	11-04-2016	Legislative & Parliamentary Affairs Department
Extra No.4	11-04-2016	Legislative & Parliamentary Affairs Department
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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII ] WEDNESDAY, JANUARY 27, 2016/MAGHA 7, 1937

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 27<sup>th</sup> January, 2016.

No. RPB/6-2016/Ord.-01-2016-E:— The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 7<sup>th</sup> January, 2016 is republished for general Information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 7<sup>th</sup> January, 2016/Pausha 17, 1937 (Saka)*

THE ENEMY PROPERTY (AMENDMENT AND VALIDATION) ORDINANCE, 2016

No. 1 OF 2016

Promulgated by the President in the Sixty-Sixth Year of the Republic of India.

An Ordinance further to amend the Enemy Property Act, 1968 and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Enemy Property (Amendment and Validation) Ordinance, 2016.

Short title and commencement.

(2) It shall come into force at once.

Amendment  
of section 2.

2. On and from the date of commencement of the Enemy Property Act, 1968 (hereinafter referred to as the principal Act), 34 of 1968, in section 2,—

(i) in clause (b),—

(I) for the words “an enemy subject”, the words “an enemy subject including his legal heir and successor whether or not a citizen of India or the citizen of a country which is not an enemy or the enemy, enemy subject or his legal heir and successor who has changed his nationality” shall be substituted and shall always be deemed to have been substituted;

(II) for the words “an enemy firm”, the words “an enemy firm, including its succeeding firm whether or not partners or members of such succeeding firm are citizen of India or the citizen of a country which is not an enemy or such firm which has changed its nationality” shall be substituted and shall always be deemed to have been substituted;

(III) for the words “does not include a citizen of India”, the words “does not include a citizen of India other than those citizens of India, being the legal heir and successor of the “enemy” or “enemy subject” or “enemy firm” ” shall be substituted and shall always be deemed to have been substituted;

(IV) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:—

*‘Explanation 1.*—For the purposes of this clause, the expression “does not include a citizen of India” shall exclude and shall always be deemed to have been excluded those citizens of India, who are or have been the legal heir and successor of an “enemy” or an “enemy subject” or an “enemy firm” which or who has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy.

*Explanation 2.*—For the purposes of this clause, it is hereby clarified that nothing contained in this Act shall affect any right of the legal heir



and successor referred to in this clause (not being inconsistent to the provisions of this Act) which have been conferred upon him under any law for the time being in force.’;

(ii) in clause (c), in the proviso,—

(I) after the words “dies in the territories to which this Act extends”, the words “or dies in any territory outside India” shall be inserted and shall always be deemed to have been inserted;

(II) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:—

*Explanation 1.*— For the purposes of this clause, it is hereby clarified that “enemy property” shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue and always be deemed to be continued as an enemy property.

*Explanation 2.*— For the purposes of this clause, the expression “enemy property” shall mean and include and shall be deemed to have always meant and included all rights, titles and interest in, or any benefit arising out of, such property.’.

3. On and from the date of commencement of the principal Act, in section 5, after sub-section (2), the following shall be inserted, and shall always be deemed to have been inserted, namely:—

Amendment of section 5.

‘(3) The enemy property vested in the Custodian shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue to remain, save as otherwise provided in this Act, vested in the Custodian.

*Explanation.*—For the purposes of this sub-section, “enemy property vested in the Custodian” shall include and always deemed to have been included all rights, titles, and

interest in, or any benefit arising out of, such property vested in him under this Act.”.

Insertion of  
new section  
5A.

4. After section 5 of the principal Act, the following section shall be inserted, namely:—

Issue of  
certificate by  
Custodian.

“5A. The Custodian may, after making such inquiry as he deems necessary, by order, declare that the property of the enemy or the enemy subject or the enemy firm described in the order, vests in him under this Act and issue a certificate to this effect and such certificate shall be the evidence of the facts stated therein.”.

Insertion of  
new section  
5B.

5. On and from the date of commencement of the principal Act, after section 5A (as so inserted by section 4 of this Ordinance), the following shall be inserted and shall always be deemed to have been inserted, namely:—

Law of  
succession  
or any  
custom or  
usage not to  
apply to  
enemy  
property.

“5B. Nothing contained in any law for the time being in force relating to succession or any custom or usage governing succession of property shall apply in relation to the enemy property under this Act and no person (including his legal heir and successor) shall have any right and shall be deemed not to have any right (including all rights, titles and interests or any benefit arising out of such property) in relation to such enemy property.

*Explanation.*—For the purposes of this section, the expressions “custom” and “usage” signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law in the matters of succession of property.”.

Amendment  
of section 6.

6. On and from the date of commencement of the principal Act, for section 6 of the principal Act, the following section shall be substituted and shall always be deemed to have been substituted, namely:—

Prohibition  
to transfer  
any property  
vested in  
Custodian  
by an  
enemy,  
enemy  
subject or  
enemy firm.

“6. (1) No enemy or enemy subject or enemy firm shall have any right and shall never be deemed to have any right to transfer any property vested in the Custodian under this Act, whether before or after the commencement of this Act and any transfer of such property shall be void and shall always be deemed to have been void.

(2) Where any property vested in the Custodian under this Act had been transferred, before the commencement of the Enemy Property (Amendment and Validation) Ordinance, 2016, by an enemy or enemy subject or enemy



firm and such transfer has been declared, by an order, made by the Central Government, to be void, and the property had been vested or deemed to have been vested in the Custodian [by virtue of the said order made under section 6, as it stood before its substitution by section 6 of the Enemy Property (Amendment and Validation) Ordinance, 2016] such property shall, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, continue to vest or be deemed to have been vested in the Custodian and no person (including an enemy or enemy subject or enemy firm) shall have any right or deemed to have any right (including all rights, titles and interests or any benefit arising out of such property) over the said property vested or deemed to have been vested in the Custodian.”.

7. In section 8 of the principal Act,—

Amendment  
of section 8.

(i) On and from the date of commencement of the principal Act, for sub-section (1), the following sub-section shall be substituted and shall always be deemed to have been substituted, namely:—

“(1) With respect to the property vested in the Custodian under this Act, the Custodian may take or authorise the taking of such measures as he considers necessary or expedient for preserving such property till it is disposed of in accordance with the provisions of this Act.”;

(ii) in sub-section (2),—

(a) after clause (i), the following clause shall be inserted, namely:—

“(ia) fix and collect the rent, standard rent, lease rent, licence fee or usage charges, as the case may be, in respect of enemy property;

(b) after clause (iv), the following clause shall be inserted, namely:—

“(iva) secure vacant possession of the enemy property by evicting the unauthorised or illegal occupant or trespasser and remove unauthorised or illegal constructions, if any.”.

Insertion of  
new section  
8A.

8. After section 8 of the principal Act, the following section shall be inserted, namely:—

Sale of  
property  
by  
Custodian.

“8A.(1) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or any law for the time being in force, the Custodian may, within such time as may be specified by the Central Government in this behalf, dispose of whether by sale or otherwise, as the case may be, with prior approval of the Central Government, by general or special order, enemy properties vested in him immediately before the date of commencement of the Enemy Property (Amendment and Validation) Ordinance, 2016 in accordance with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2016.

(2) The Custodian may, for the purpose of disposal of enemy property under sub-section (1), make requisition of the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(3) The Custodian shall, on disposal of enemy property under sub-section (1) immediately deposit the sale proceeds into the Consolidated Fund of India and intimate details thereof to the Central Government.

(4) The Custodian shall send a report to the Central Government at such intervals, as it may specify, for the enemy properties disposed of under sub-section (1), containing such details, (including the price for which such property has been sold and the particulars of the buyer to whom the properties have been sold or disposed of and the details of the proceeds of sale or disposal deposited into the Consolidated Fund of India) as it may specify.

(5) The Central Government may, by general or special order, issue such directions to the Custodian on the matters relating to disposal of enemy property under sub-section (1) and such directions shall be binding upon the Custodian and the buyer of the enemy properties referred to in that sub-section and other persons connected to such sale or disposal.

(6) The Central Government may, by general or special order, make such guidelines for disposal of enemy property under sub-section (1).



(7) Notwithstanding anything contained in this section, the Central Government may direct that disposal of enemy property under sub-section (1) shall be made by any other authority or Ministry or Department instead of Custodian and in that case all the provisions of this section shall apply to such authority or Ministry or Department in respect of disposal of enemy property under sub-section (1).

(8) Notwithstanding anything contained in sub-sections (1) to (7), the Central Government may deal with or utilise the enemy property in such manner as it may deem fit.”.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
10A.

“10A.(1) Where the Custodian proposes to sell any enemy immovable property vested in him, to any person, he may on receipt of the sale proceeds of such property, issue a certificate of sale in favour of such person and such certificate of sale shall, notwithstanding the fact that the original title deeds of the property have not been handed over to the transferee, be valid and conclusive proof of ownership of such property by such person.

Power to issue  
certificate of  
sale.

(2) Notwithstanding anything contained in any law for the time being in force, the certificate of sale, referred to in sub-section (1), issued by the Custodian shall be a valid instrument for the registration of the property in favour of the transferee and the registration in respect of enemy property for which such certificate of sale had been issued by the Custodian, shall not be refused on the ground of lack of original title deeds in respect of such property or for any such other reason.”.

10. In section 11 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of  
section 11.

“(3) The Custodian, Deputy Custodian or Assistant Custodian shall have, for the purposes of exercising powers or discharging his functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while dealing with any case under this Act, in respect of the following matters, namely:—

S of 1908.

(a) requiring the discovery and inspection of documents;

(b) enforcing the attendance of any person, including



any officer dealing with land, revenue and registration matters, banking officer or officer of a company and examining him on oath;

(c) compelling the production of books, documents and other records; and

(d) issuing commissions for the examination of witnesses or documents.”.

Amendment  
of section  
17.

11. In section 17 of the principal Act, in sub-section (1), for the words “two per centum”, at both the places where they occur, the words “five per centum” shall be substituted.

Substitution  
of new  
section for  
section 18.

12. For section 18 of the principal Act, the following section shall be substituted, namely:—

Transfer of  
property  
vested as  
enemy  
property in  
certain  
cases.

“18. The Central Government may, on receipt of a representation from a person, aggrieved by an order vesting a property as enemy property in the Custodian within a period of thirty days from the date of receipt of such order and after giving a reasonable opportunity of being heard, if it is of the opinion that any enemy property vested in the Custodian under this Act and remaining with him was not an enemy property, it may by general or special order, direct the Custodian that such property vested as enemy property in the Custodian may be transferred to the person from whom such property was acquired and vested in the Custodian.”.

Insertion of  
new  
section 18A.

13. On and from the date of commencement of the principal Act, after section 18 (as so substituted by section 12 of this Ordinance), the following section shall be inserted and shall always be deemed to have been inserted, namely:—

Income not  
liable to be  
returned.

“18A. Any income received in respect of the enemy property by the Custodian shall not, notwithstanding that such property had been transferred by way of sale under section 8A or section 18, as the case may be, to any other person, be returned or liable to be returned to such person or any other person.”.

Insertion of  
new section  
18B.

14. After section 18A of the principal Act, (as so inserted by section 13 of this Ordinance), the following section shall be inserted, namely:—

“18B. No civil court or other authority shall entertain any suit or other proceeding in respect of any property, subject matter of this Act as amended by the Enemy Property (Amendment and Validation) Ordinance, 2016, or any action taken by the Central Government or the Custodian in this regard.”

Bar of jurisdiction.

15. In section 20 of the principal Act, for the words "five hundred rupees" at both the places where they occur, the words "ten thousand rupees" shall be substituted.

Amendment of section 20.

16. On and from the date of commencement of the principal Act, in section 22 of the principal Act, after the words "for the time being in force", the brackets and words "(including any law of succession or any custom or usage in relation to succession of property)" shall be inserted and shall always be deemed to have been inserted.

Amendment of section 22.

17. After section 22 of the principal Act, the following section shall be inserted and shall always be deemed to have been inserted with effect from the 2<sup>nd</sup> July, 2010, namely:—

Insertion of new section 22A.

“22A. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

Validation.

(a) the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2016, shall have and shall always be deemed to have effect for all purposes as if the provisions of this Act, as amended by the said Ordinance, had been in force at all material times;

(b) any enemy property divested from the Custodian to any person under the provisions of this Act, as it stood immediately before the commencement of the Enemy Property (Amendment and Validation) Ordinance, 2016, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the Custodian in the same manner as it was vested in the Custodian before such divesting of enemy property under the provisions of this Act, as if the provisions of this Act, as amended by the aforesaid Ordinance, were in force at all material times;

(c) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority



directing divestment of enemy property from the Custodian vested in him under section 5 of this Act, as it stood before the commencement of the Enemy Property (Amendment and Validation) Ordinance, 2016, and such enemy property shall continue to vest in the Custodian under section 5 of this Act, as amended by the aforesaid Ordinance, as the said section, as amended by the aforesaid Ordinance was in force at all material times;

(d) any transfer of any enemy property, vested in the Custodian, by virtue of any order of attachment, seizure or sale in execution of decree of a civil court or orders of any tribunal or other authority in respect of enemy property vested in the Custodian which is contrary to the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2016, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the Custodian under this Act.”.

Amendment  
of section  
23.

18. In section 23 of the principal Act, in sub-section (2), clause (d) shall be omitted.

Power to  
removal of  
difficulty.

19. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2016, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2016, or the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2016, as may appear to be necessary for removing the difficulty: 40 of 1971.

Provided that no such order shall be made under this section after the expiry of two years from the date on which the Enemy Property (Amendment and Validation) Bill, 2016, replacing the Enemy Property (Amendment and Validation) Ordinance, 2016, receives the assent of the President.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment  
of sections 2  
and 3 of Act  
40 of 1971.

20. In the Public Premises (Eviction of Unauthorised Occupants) Act, 1971,—

(a) in section 2, in clause (e), after sub-clause (3), the

following sub-clause shall be inserted, namely:—

14 of 1968

“(4) any premises of the enemy property as defined in clause (c) of section 2 of the Enemy Property Act, 1968.”;

(b) in section 3, in clause (a),—

(i) in the second proviso, the word “and” shall be omitted;

(ii) after the second proviso, the following proviso shall be inserted, namely:—

14 of 1968.

“Provided also that the Custodian, Deputy Custodian of the enemy property appointed under section 3 of the Enemy Property Act, 1968 shall be deemed to have been appointed as the Estate Officer in respect of those enemy property, being the public premises, referred to in sub-clause (4) of clause (e) of section 2 of this Act for which they had been appointed as the Custodian, Deputy Custodian and Assistant Custodian under section 3 of the Enemy Property Act, 1968.”.

Ord. 4 of 2010.

34 of 1968.

40 of 1971.

21. Notwithstanding the cessation of the operation of the Savings. Enemy Property (Amendment and Validation) Ordinance, 2010, anything done or any action taken under the Enemy Property Act, 1968, or the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, as if the provisions of this Act, as amended by the said Ordinance had been in force at all material times.

Pranab Mukherjee,  
President.

Dr. G. Narayana Raju,  
Secy. to the Government of India.

By order and in tl

By order and in the name of the Governor of Gujarat,

C. J. Góthi  
Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII ] FRIDAY, MARCH 11, 2016/PHALGUNA 21, 1937

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 11<sup>th</sup> March, 2016.

No. RPB/35-2016/Act-26-15/E:— The following Act of Parliament is republished for general information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 29<sup>th</sup> December, 2015, Paush 08, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 26<sup>th</sup> December, 2015 is hereby published for general information:-

#### THE NEGOTIABLE INSTRUMENTS (AMENDMENT) ACT, 2015

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN ACT

[ Act No. 26 of 2015 ]

[ 26<sup>th</sup> December, 2015.]

*further to amend the Negotiable Instruments Act, 1881.*

Be it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Negotiable Instruments (Amendment) Act, 2015.

Short title and  
commencement.

(2) It shall be deemed to have come into force on the 15th day of June, 2015.

26 of 1881. 2. In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), in section 6,—

Amendment of  
section 6.

(i) in Explanation I, for clause (a), the following clause shall be substituted, namely:—

'(a) "a cheque in the electronic form" means a cheque drawn in electronic form by using any computer resource and signed in a secure system with digital signature (with or without biometrics signature) and asymmetric crypto system or with electronic signature, as the case may be;'

(ii) after *Explanation II*, the following *Explanation* shall be inserted, namely:—

*'Explanation III.*— For the purposes of this section, the expressions "asymmetric crypto system", "computer resource", "digital signature", "electronic form" and "electronic signature" shall have the same meanings respectively assigned to them in the Information Technology Act, 2000.'

Amendment  
of section  
142.

3. In the principal Act, section 142 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

*Explanation.*— For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account."

Insertion of  
New section  
142A.

4. In the principal Act, after section 142, the following section shall be inserted, namely:—

Validation for  
transfer of  
pending cases.

"142A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or direction of any court, all cases transferred to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, shall be deemed to have been transferred under this Act, as if that sub-section had been in force at all material times.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1) and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of the Negotiable Instruments (Amendment) Act, 2015, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, before which the first case was filed and is pending, as if that sub-section had been in force at all material times.



Ord. 7 of  
2015.

5. (1) The Negotiable Instruments (Amendment) Second Ordinance, 2015, is hereby repealed. **Repeal and savings.**

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-

**Dr. G. Narayana Raju,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTHI,**  
Secretary to Government.



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## EXTRAORDINARY

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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, Dated the 11<sup>th</sup> April, 2016.

No. RPB/36-2016/Act-1-16/E :- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 1<sup>st</sup> January, 2016, Paush 11, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 31 December, 2015 is hereby published for general information :-

### THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) AMENDMENT ACT, 2015

(AS PASSED BY THE HOUSES OF PARLIAMENT)

[Act No. 1 of 2016]

AN ACT

[31<sup>st</sup> December, 2015]

*to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.*

Be it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

Short title  
and com-  
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

33 of 1989.

2. In the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the principal Act), in the long title, for the words "Special Courts", the words "Special Courts and the Exclusive Special Courts" shall be substituted.

Amendment  
of long title.



Amendment  
of section 2.

3. In section 2 of the principal Act, in sub-section (1),—

(i) after clause (b), the following clauses shall be inserted, namely:—

‘(bb) “dependent” means the spouse, children, parents, brother and sister of the victim, who are dependent wholly or mainly on such victim for his support and maintenance;

(bc) “economic boycott” means—

(i) a refusal to deal with, work for hire or do business with other person; or

(ii) to deny opportunities including access to services or contractual opportunities for rendering service for consideration; or

(iii) to refuse to do anything on the terms on which things would be commonly done in the ordinary course of business; or

(iv) to abstain from the professional or business relations that one would maintain with other person;

(bd) “Exclusive Special Court” means the Exclusive Special Court established under sub-section (1) of section 14 exclusively to try the offences under this Act;

(be) “forest rights” shall have the meaning assigned to it in sub-section (1) of section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

2 of 2007.

(bf) “manual scavenger” shall have the meaning assigned to it in clause (g) of sub-section (1) of section 2 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013;

25 of 2013.

(bg) “public servant” means a public servant as defined under section 21 of the Indian Penal Code, as well as any other person deemed to be a public servant under any other law for the time being in force and includes any person acting in his official capacity under the Central Government or the State Government, as the case may be;’

45 of 1860.

(ii) after clause (e), the following clauses shall be inserted, namely:—

‘(ea) “Schedule” means the Schedule appended to this Act;

(eb) “social boycott” means a refusal to permit a person to render to other person or receive from him any customary service or to abstain from social relations that one would maintain with other person or to isolate him from others;

(ec) “victim” means any individual who falls within the definition of the “Scheduled Castes and Scheduled Tribes” under clause (c) of sub-section (1) of section 2, and who has suffered or experienced physical, mental, psychological, emotional or monetary harm or harm to his property as a result of the commission of any offence under this Act and includes his relatives, legal guardian and legal heirs;

(ed) “witness” means any person who is acquainted with the facts and circumstances, or is in possession of any information or has knowledge necessary for the purpose of investigation, inquiry or trial of any crime involving an offence under this Act, and who is or may be required to give information or make a statement or produce any document during investigation, inquiry or trial of such case and includes a victim of such offence;’

45 of 1860.  
1 of 1872.  
2 of 1974.

(iii) for clause (f), the following clause shall be substituted, namely:—

“(f) the words and expressions used but not defined in this Act and defined in the Indian Penal Code, the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, as the case may be, shall be deemed to have the meanings respectively assigned to them in those enactments.”.

4. In section 3 of the principal Act,—

Amendment  
of section 3.

(i) for sub-section (I), the following sub-section shall be substituted, namely:—

‘(I) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(a) puts any inedible or obnoxious substance into the mouth of a member of a Scheduled Caste or a Scheduled Tribe or forces such member to drink or eat such inedible or obnoxious substance;

(b) dumps excreta, sewage, carcasses or any other obnoxious substance in premises, or at the entrance of the premises, occupied by a member of a Scheduled Caste or a Scheduled Tribe;

(c) with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe, dumps excreta, waste matter, carcasses or any other obnoxious substance in his neighbourhood;

(d) garlands with footwear or parades naked or semi-naked a member of a Scheduled Caste or a Scheduled Tribe;

(e) forcibly commits on a member of a Scheduled Caste or a Scheduled Tribe any act, such as removing clothes from the person, forcible tonsuring of head, removing moustaches, painting face or body or any other similar act, which is derogatory to human dignity;

(f) wrongfully occupies or cultivates any land, owned by, or in the possession of or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe, or gets such land transferred;

(g) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights, including forest rights, over any land or premises or water or irrigation facilities or destroys the crops or takes away the produce therefrom.

*Explanation.*—For the purposes of clause (f) and this clause, the expression “wrongfully” includes—

(A) against the person’s will;

(B) without the person’s consent;

(C) with the person’s consent, where such consent has been obtained by putting the person, or any other person in whom the person is interested in fear of death or of hurt; or

(D) fabricating records of such land;

(h) makes a member of a Scheduled Caste or a Scheduled Tribe to do “*begar*” or other forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government;

(i) compels a member of a Scheduled Caste or a Scheduled Tribe to dispose or carry human or animal carcasses, or to dig graves;

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(j) makes a member of a Scheduled Caste or a Scheduled Tribe to do manual scavenging or employs or permits the employment of such member for such purpose;

(k) performs, or promotes dedicating a Scheduled Caste or a Scheduled Tribe woman to a deity, idol, object of worship, temple, or other religious institution as a *devadasi* or any other similar practice or permits aforementioned acts;

(l) forces or intimidates or prevents a member of a Scheduled Caste or a Scheduled Tribe—

(A) not to vote or to vote for a particular candidate or to vote in a manner other than that provided by law;

(B) not to file a nomination as a candidate or to withdraw such nomination; or

(C) not to propose or second the nomination of a member of a Scheduled Caste or a Scheduled Tribe as a candidate in any election;

(m) forces or intimidates or obstructs a member of a Scheduled Caste or a Scheduled Tribe, who is a member or a Chairperson or a holder of any other office of a Panchayat under Part IX of the Constitution or a Municipality under Part IXA of the Constitution, from performing their normal duties and functions;

(n) after the poll, causes hurt or grievous hurt or assault or imposes or threatens to impose social or economic boycott upon a member of a Scheduled Caste or a Scheduled Tribe or prevents from availing benefits of any public service which is due to him;

(o) commits any offence under this Act against a member of a Scheduled Caste or a Scheduled Tribe for having voted or not having voted for a particular candidate or for having voted in a manner provided by law;

(p) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;

(q) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

(t) destroys, damages or defiles any object generally known to be held sacred or in high esteem by members of the Scheduled Castes or the Scheduled Tribes.

*Explanation.*—For the purposes of this clause, the expression “object” means and includes statue, photograph and portrait;

(u) by words either written or spoken or by signs or by visible representation or otherwise promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes;

(v) by words either written or spoken or by any other means disrespects any late person held in high esteem by members of the Scheduled Castes or the Scheduled Tribes;

(w) (i) intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient's consent;

(ii) uses words, acts or gestures of a sexual nature towards a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe.

*Explanation.*—For the purposes of sub-clause (i), the expression “consent” means an unequivocal voluntary agreement when the person by words, gestures, or any form of non-verbal communication, communicates willingness to participate in the specific act:

Provided that a woman belonging to a Scheduled Caste or a Scheduled Tribe who does not offer physical resistance to any act of a sexual nature is not by reason only of that fact, is to be regarded as consenting to the sexual activity:

Provided further that a woman's sexual history, including with the offender shall not imply consent or mitigate the offence;

(x) corrupts or fouls the water of any spring; reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;

(y) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any other section thereof have a right to use or access to;

(z) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence:

Provided that nothing contained in this clause shall apply to any action taken in discharge of a public duty;

(za) obstructs or prevents a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to—

(A) using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing *ghat*; any public conveyance, any road, or passage;

(B) mounting or riding bicycles or motor cycles or wearing footwear or new clothes in public places or taking out wedding procession, or mounting a horse or any other vehicle during wedding processions;

(C) entering any place of worship which is open to the public or other persons professing the same religion or taking part in, or taking out, any religious, social or cultural processions including *jatras*;

(D) entering any educational institution, hospital, dispensary, primary health centre, shop or place of public entertainment or any



other public place; or using any utensils or articles meant for public use in any place open to the public; or

(E) practicing any profession or the carrying on of any occupation, trade or business or employment in any job which other members of the public, or any section thereof, have a right to use or have access to;

(zb) causes physical harm or mental agony of a member of a Scheduled Caste or a Scheduled Tribe on the allegation of practicing witchcraft or being a witch; or

(zc) imposes or threatens a social or economic boycott of any person or a family or a group belonging to a Scheduled Caste or a Scheduled Tribe,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.;

(ii) in sub-section (2),—

(a) in clause (v), for the words “on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member”, the words “knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member” shall be substituted;

(b) after clause (v), the following clause shall be inserted, namely:—

“(va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code for such offences and shall also be liable to fine.”

45 of 1860.

Substitution of new section for section 4.

Punishment for neglect of duties.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

“4. (1) Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act and the rules made thereunder, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

(2) The duties of public servant referred to in sub-section (1) shall include—

(a) to read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant;

(b) to register a complaint or a First Information Report under this Act and other relevant provisions and to register it under appropriate sections of this Act;

(c) to furnish a copy of the information so recorded forthwith to the informant;

(d) to record the statement of the victims or witnesses;

(e) to conduct the investigation and file charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days, and to explain the delay if any, in writing;

(f) to correctly prepare, frame and translate any document or electronic record;

(g) to perform any other duty specified in this Act or the rules made thereunder:

Provided that the charges in this regard against the public servant shall be booked on the recommendation of an administrative enquiry.

(3) The cognizance in respect of any dereliction of duty referred to in sub-section (2) by a public servant shall be taken by the Special Court or the Exclusive Special Court and shall give direction for penal proceedings against such public servant.”

6. In section 8 of the principal Act,—

Amendment  
of section 8.

(i) in clause (a), for the words “any financial assistance to a person accused of”, the words “any financial assistance in relation to the offences committed by a person accused of” shall be substituted;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) the accused was having personal knowledge of the victim or his family, the Court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved.”

7. In section 10 of the principal Act, in sub-section (1),—

Amendment  
of section 10.

(a) after the words and figures “article 244 of the Constitution”, the words, brackets and figures “or any area identified under the provisions of clause (vii) of sub-section (2) of section 21” shall be inserted;

(b) for the words “two years”, the words “three years” shall be substituted.

8. For section 14 of the principal Act, the following section shall be substituted, namely:—

Substitution  
of new  
section for  
section 14.

“14. (1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, establish an Exclusive Special Court for one or more Districts:

Special Court  
and Exclusive  
Special Court.

Provided that in Districts where less number of cases under this Act is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for such Districts, the Court of Session to be a Special Court to try the offences under this Act:

Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Act.

(2) It shall be the duty of the State Government to establish adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible.

(3) In every trial in the Special Court or the Exclusive Special Court, the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Special Court or the Exclusive Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing:

Provided that when the trial relates to an offence under this Act, the trial shall, as far as possible, be completed within a period of two months from the date of filing of the charge sheet.”

13



Insertion of  
new section  
14A.

9. After section 14 of the principal Act, the following section shall be inserted, namely:—

Appeals.

“14A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

2 of 1974.

(2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973, an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

2 of 1974.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.”

Substitution of  
new section for  
section 15.

10. For section 15 of the principal Act, the following section shall be substituted, namely:—

Special Public  
Prosecutor and  
Exclusive Public  
Prosecutor.

“15. (1) For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

(2) For every Exclusive Special Court, the State Government shall, by notification in the Official Gazette, specify an Exclusive Special Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as an Exclusive Special Public Prosecutor for the purpose of conducting cases in that Court.”

Insertion of  
new Chapter  
IVA.

11. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

#### “CHAPTER IVA

##### RIGHTS OF VICTIMS AND WITNESSES

Rights of  
victims and  
witnesses.

15A. (1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

(2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty.

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.



(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

2 of 1974.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victim, his dependent, informant or witnesses—

(a) the complete protection to secure the ends of justice;

(b) the travelling and maintenance expenses during investigation, inquiry and trial;

(c) the social-economic rehabilitation during investigation, inquiry and trial; and

(d) relocation.

(7) The State shall inform the concerned Special Court or the Exclusive Special Court about the protection provided to any victim or his dependent, informant or witnesses and such Court shall periodically review the protection being offered and pass appropriate orders.

(8) Without prejudice to the generality of the provisions of sub-section (6), the concerned Special Court or the Exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including—

(a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;

(b) issuing directions for non-disclosure of the identity and addresses of the witnesses;

(c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

(9) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost.

(10) All proceedings relating to offences under this Act shall be video recorded.

(11) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as—

(a) to provide a copy of the recorded First Information Report at free of cost;



(b) to provide immediate relief in cash or in kind to atrocity victims or their dependents;

(c) to provide necessary protection to the atrocity victims or their dependents, and witnesses;

(d) to provide relief in respect of death or injury or damage to property;

(e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;

(f) to provide the maintenance expenses to the atrocity victims and their dependents;

(g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First Information Report;

(h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment;

(i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost;

(j) to take necessary precautions at the time of medical examination;

(k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount;

(l) to provide information to atrocity victims or their dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial;

(m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose;

(n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Act and to provide the necessary assistance for the execution of the rights.

(12) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates.”.

Insertion of  
new Schedule.

12. After section 23 of the principal Act, the following Schedule shall be inserted, namely:—

“THE SCHEDULE

[See section 3(2) (va)]

Section under the Indian Penal Code	Name of offence and punishment
120A	Definition of criminal conspiracy.
120B	Punishment of criminal conspiracy.
141	Unlawful assembly.
142	Being member of unlawful assembly.

Section under the Indian Penal Code	Name of offence and punishment
143	Punishment for unlawful assembly.
144	Joining unlawful assembly armed with deadly weapon.
145	Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.
146	Rioting.
147	Punishment for rioting.
148	Rioting, armed with deadly weapon.
217	Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.
319	Hurt.
320	Grievous hurt.
323	Punishment for voluntarily causing hurt.
324	Voluntarily causing hurt by dangerous weapons or means.
325	Punishment for voluntarily causing grievous hurt.
326B	Voluntarily throwing or attempting to throw acid.
332	Voluntarily causing hurt to deter public servant from his duty.
341	Punishment for wrongful restraint.
354	Assault or criminal force to woman with intent to outrage her modesty.
354A	Sexual harassment and punishment for sexual harassment.
354B	Assault or use of criminal force to woman with intent to disrobe.
354C	Voyeurism.
354D	Stalking.
359	Kidnapping.
363	Punishment for kidnapping.
365	Kidnapping or abducting with intent secretly and wrongfully to confine person.
376B	Sexual intercourse by husband upon his wife during separation.
376C	Sexual intercourse by a person in authority.
447	Punishment for criminal trespass.
506	Punishment for criminal intimidation.
509	Word, gesture or act intended to insult the modesty of a woman.”.

Repeal and  
saving.

13. (1) The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance, 2014 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Ord.  
1 of 2014.

Sd/-

**DR. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.

Government Central Press, Gandhinagar.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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MONDAY, APRIL 11, 2016/CAITRA 22, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, Dated the 11<sup>th</sup> April, 2016.

No. RPB/36-2016/Act-2-16/E :- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 1<sup>st</sup> January, 2016, Paush 11, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 31<sup>st</sup> December, 2015 is hereby published for general information :-

### THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015.

(AS PASSED BY THE HOUSES OF PARLIAMENT)

[Act No. 2 of 2016]

AN ACT

[31<sup>st</sup> December, 2015]

*to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, hereinunder and for matters connected therewith or incidental thereto.*

WHEREAS, the provisions of the Constitution confer powers and impose duties, under clause (3) of article 15, clauses (e) and (f) of article 39, article 45 and article 47, on the State to ensure that all the needs of children are met and that their basic human rights are fully protected;

AND WHEREAS, the Government of India has acceded on the 11<sup>th</sup> December, 1992 to the Convention on the Rights of the Child, adopted by the General Assembly of United Nations, which has prescribed a set of standards to be adhered to by all State parties in securing the best interest of the child;

AND WHEREAS, it is expedient to re-enact the Juvenile Justice (Care and Protection of Children) Act, 2000 to make comprehensive provisions for children alleged and found to be in conflict with law and children in need of care and protection, taking into consideration the standards prescribed in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (1993), and other related international instruments.

56 of 2000.

Be it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

Short title,  
extent,  
commencement  
and  
application.

1. (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Act, 2015.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all matters concerning children in need of care and protection and children in conflict with law, including —

(i) apprehension, detention, prosecution, penalty or imprisonment, rehabilitation and social re-integration of children in conflict with law;

(ii) procedures and decisions or orders relating to rehabilitation, adoption, re-integration, and restoration of children in need of care and protection.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) “abandoned child” means a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry;

(2) “adoption” means the process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities that are attached to a biological child;

(3) “adoption regulations” means the regulations framed by the Authority and notified by the Central Government in respect of adoption;

(4) “administrator” means any district official not below the rank of Deputy Secretary to the State, on whom magisterial powers have been conferred;

(5) “aftercare” means making provision of support, financial or otherwise, to persons, who have completed the age of eighteen years but have not completed the age of twenty-one years, and have left any institutional care to join the mainstream of the society;

(6) “authorised foreign adoption agency” means a foreign social or child welfare agency that is authorised by the Central Adoption Resource Authority on the recommendation of their Central Authority or Government department of that country for sponsoring the application of non-resident Indian or overseas citizen of India or persons of Indian origin or foreign prospective adoptive parents for adoption of a child from India;

(7) “Authority” means the Central Adoption Resource Authority constituted under section 68;



(8) "begging" means—

(i) soliciting or receiving alms in a public place or entering into any private premises for the purpose of soliciting or receiving alms, under any pretence;

(ii) exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(9) "best interest of child" means the basis for any decision taken regarding the child, to ensure fulfilment of his basic rights and needs, identity, social well-being and physical, emotional and intellectual development;

(10) "Board" means a Juvenile Justice Board constituted under section 4;

(11) "Central Authority" means the Government department recognised as such under the Hague Convention on Protection of Children and Cooperation in Inter-country Adoption (1993);

(12) "child" means a person who has not completed eighteen years of age;

(13) "child in conflict with law" means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence;

(14) "child in need of care and protection" means a child—

(i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or

(ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or

(iii) who resides with a person (whether a guardian of the child or not) and such person—

(a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or

(b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or

(c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or

(iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or

(v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or

(vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or

(vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or

(viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or

(ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or

(x) who is being or is likely to be abused for unconscionable gains; or

(xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or

(xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;

(15) "child friendly" means any behaviour, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child;

(16) "child legally free for adoption" means a child declared as such by the Committee after making due inquiry under section 38;

(17) "Child Welfare Officer" means an officer attached to a Children's Home, for carrying out the directions given by the Committee or, as the case may be, the Board with such responsibility as may be prescribed;

(18) "Child Welfare Police Officer" means an officer designated as such under sub-section (1) of section 107;

(19) "Children's Home" means a Children's Home, established or maintained, in every district or group of districts, by the State Government, either by itself, or through a voluntary or non-governmental organisation, and is registered as such for the purposes specified in section 50;

(20) "Children's Court" means a court established under the Commissions for Protection of Child Rights Act, 2005 or a Special Court under the Protection of Children from Sexual Offences Act, 2012, wherever existing and where such courts have not been designated, the Court of Sessions having jurisdiction to try offences under the Act;

4 of 2006.

32 of 2012.

(21) "child care institution" means Children Home, open shelter, observation home, special home, place of safety, Specialised Adoption Agency and a fit facility recognised under this Act for providing care and protection to children, who are in need of such services;

(22) "Committee" means Child Welfare Committee constituted under section 27;

(23) "court" means a civil court, which has jurisdiction in matters of adoption and guardianship and may include the District Court, Family Court and City Civil Courts;

(24) "corporal punishment" means the subjecting of a child by any person to physical punishment that involves the deliberate infliction of pain as retribution for an offence, or for the purpose of disciplining or reforming the child;

(25) "childline services" means a twenty-four hours emergency outreach service for children in crisis which links them to emergency or long-term care and rehabilitation service;

(26) "District Child Protection Unit" means a Child Protection Unit for a District, established by the State Government under section 106, which is the focal point to ensure the implementation of this Act and other child protection measures in the district;

(27) "fit facility" means a facility being run by a governmental organisation or a registered voluntary or non-governmental organisation, prepared to temporarily own the responsibility of a particular child for a specific purpose, and such facility is recognised as fit for the said purpose, by the Committee, as the case may be, or the Board, under sub-section (1) of section 51;



(28) "fit person" means any person, prepared to own the responsibility of a child, for a specific purpose, and such person is identified after inquiry made in this behalf and recognised as fit for the said purpose, by the Committee or, as the case may be, the Board, to receive and take care of the child;

(29) "foster care" means placement of a child, by the Committee for the purpose of alternate care in the domestic environment of a family, other than the child's biological family, that has been selected, qualified, approved and supervised for providing such care;

(30) "foster family" means a family found suitable by the District Child Protection Unit to keep children in foster care under section 44;

(31) "guardian" in relation to a child, means his natural guardian or any other person having, in the opinion of the Committee or, as the case may be, the Board, the actual charge of the child, and recognised by the Committee or, as the case may be, the Board as a guardian in the course of proceedings;

(32) "group foster care" means a family like care facility for children in need of care and protection who are without parental care, aiming on providing personalised care and fostering a sense of belonging and identity, through family like and community based solutions;

45 of 1860.

(33) "heinous offences" includes the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more;

(34) "inter-country adoption" means adoption of a child from India by non-resident Indian or by a person of Indian origin or by a foreigner;

(35) "juvenile" means a child below the age of eighteen years;

61 of 1985.

(36) "narcotic drug" and "psychotropic substance" shall have the meanings, respectively, assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985;

(37) "no objection certificate" for inter-country adoption means a certificate issued by the Central Adoption Resource Authority for the said purpose;

(38) "non-resident Indian" means a person who holds an Indian passport and is presently residing abroad for more than one year;

(39) "notification" means the notification published in the Official Gazette of India, or as the case may be, in the Gazette of a State, and the expression "notify" shall be construed accordingly;

(40) "observation home" means an observation home established and maintained in every district or group of districts by a State Government, either by itself, or through a voluntary or non-governmental organisation, and is registered as such, for the purposes specified in sub-section (1) of section 47;

(41) "open shelter" means a facility for children, established and maintained by the State Government, either by itself, or through a voluntary or non-governmental organisation under sub-section (1) of section 43, and registered as such, for the purposes specified in that section;

(42) "orphan" means a child—

(i) who is without biological or adoptive parents or legal guardian; or

(ii) whose legal guardian is not willing to take, or capable of taking care of the child;



(43) "overseas citizen of India" means a person registered as such under the Citizenship Act, 1955;

57 of 1955.

(44) "person of Indian origin" means a person, any of whose lineal ancestors is or was an Indian national, and who is presently holding a Person of Indian Origin Card issued by the Central Government;

(45) "petty offences" includes the offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years;

45 of 1860.

(46) "place of safety" means any place or institution, not being a police lockup or jail, established separately or attached to an observation home or a special home, as the case may be, the person in-charge of which is willing to receive and take care of the children alleged or found to be in conflict with law, by an order of the Board or the Children's Court, both during inquiry and ongoing rehabilitation after having been found guilty for a period and purpose as specified in the order;

(47) "prescribed" means prescribed by rules made under this Act;

(48) "probation officer" means an officer appointed by the State Government as a probation officer under the Probation of Offenders Act, 1958 or the Legal-cum-Probation Officer appointed by the State Government under District Child Protection Unit;

20 of 1958.

(49) "prospective adoptive parents" means a person or persons eligible to adopt a child as per the provisions of section 57;

(50) "public place" shall have the same meaning assigned to it in the Immoral Traffic (Prevention) Act, 1956;

104 of 1956.

(51) "registered", with reference to child care institutions or agencies or facilities managed by the State Government, or a voluntary or non-governmental organisation, means observation homes, special homes, place of safety, children's homes, open shelters or Specialised Adoption Agency or fit facility or any other institution that may come up in response to a particular need or agencies or facilities authorised and registered under section 41, for providing residential care to children, on a short-term or long-term basis;

(52) "relative", in relation to a child for the purpose of adoption under this Act, means a paternal uncle or aunt, or a maternal uncle or aunt, or paternal grandparent or maternal grandparent;

(53) "State Agency" means the State Adoption Resource Agency set up by the State Government for dealing with adoption and related matters under section 67;

(54) "serious offences" includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force, is imprisonment between three to seven years;

45 of 1860.

(55) "special juvenile police unit" means a unit of the police force of a district or city or, as the case may be, any other police unit like railway police, dealing with children and designated as such for handling children under section 107;

(56) "special home" means an institution established by a State Government or by a voluntary or non-governmental organisation, registered under section 48, for housing and providing rehabilitative services to children in conflict with law, who are found, through inquiry, to have committed an offence and are sent to such institution by an order of the Board;

(57) "Specialised Adoption Agency" means an institution established by the State Government or by a voluntary or non-governmental organisation and recognised

under section 65, for housing orphans, abandoned and surrendered children, placed there by order of the Committee, for the purpose of adoption;

(58) "sponsorship" means provision of supplementary support, financial or otherwise, to the families to meet the medical, educational and developmental needs of the child;

(59) "State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;

(60) "surrendered child" means a child, who is relinquished by the parent or guardian to the Committee, on account of physical, emotional and social factors beyond their control, and declared as such by the Committee;

(61) all words and expressions used but not defined in this Act and defined in other Acts shall have the meanings respectively assigned to them in those Acts.

## CHAPTER II

### GENERAL PRINCIPLES OF CARE AND PROTECTION OF CHILDREN

3. The Central Government, the State Governments, the Board, and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely:—

General principles to be followed in administration of Act.

(i) *Principle of presumption of innocence*: Any child shall be presumed to be an innocent of any *mala fide* or criminal intent up to the age of eighteen years.

(ii) *Principle of dignity and worth*: All human beings shall be treated with equal dignity and rights.

(iii) *Principle of participation*: Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.

(iv) *Principle of best interest*: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.

(v) *Principle of family responsibility*: The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.

(vi) *Principle of safety*: All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter.

(vii) *Positive measures*: All resources are to be mobilised including those of family and community, for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.

(viii) *Principle of non-stigmatising semantics*: Adversarial or accusatory words are not to be used in the processes pertaining to a child.

(ix) *Principle of non-waiver of rights*: No waiver of any of the right of the child is permissible or valid, whether sought by the child or person acting on behalf of the child, or a Board or a Committee and any non-exercise of a fundamental right shall not amount to waiver.

(x) *Principle of equality and non-discrimination*: There shall be no discrimination against a child on any grounds including sex, caste, ethnicity, place of birth, disability and equality of access, opportunity and treatment shall be provided to every child.



(xi) *Principle of right to privacy and confidentiality:* Every child shall have a right to protection of his privacy and confidentiality, by all means and throughout the judicial process.

(xii) *Principle of institutionalisation as a measure of last resort:* A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.

(xiii) *Principle of repatriation and restoration:* Every child in the juvenile justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.

(xiv) *Principle of fresh start:* All past records of any child under the Juvenile Justice system should be erased except in special circumstances.

(xv) *Principle of diversion:* Measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.

(xvi) *Principles of natural justice:* Basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review, by all persons or bodies, acting in a judicial capacity under this Act.

### CHAPTER III

#### JUVENILE JUSTICE BOARD

Juvenile  
Justice Board.

4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government shall, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging its functions relating to children in conflict with law under this Act.

2 of 1974.

(2) A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of First Class not being Chief Metropolitan Magistrate or Chief Judicial Magistrate (hereinafter referred to as Principal Magistrate) with at least three years experience and two social workers selected in such manner as may be prescribed, of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class.

2 of 1974.

(3) No social worker shall be appointed as a member of the Board unless such person has been actively involved in health, education, or welfare activities pertaining to children for atleast seven years or a practicing professional with a degree in child psychology, psychiatry, sociology or law.

(4) No person shall be eligible for selection as a member of the Board, if he —

(i) has any past record of violation of human rights or child rights;

(ii) has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence;

(iii) has been removed or dismissed from service of the Central Government or a State Government or an undertaking or corporation owned or controlled by the Central Government or a State Government;

(iv) has ever indulged in child abuse or employment of child labour or any other violation of human rights or immoral act.

(5) The State Government shall ensure that induction training and sensitisation of all members including Principal Magistrate of the Board on care, protection, rehabilitation, legal provisions and justice for children, as may be prescribed, is provided within a period of sixty days from the date of appointment.



(6) The term of office of the members of the Board and the manner in which such member may resign shall be such, as may be prescribed.

(7) The appointment of any member of the Board, except the Principal Magistrate, may be terminated after holding an inquiry by the State Government, if he—

(i) has been found guilty of misuse of power vested under this Act; or

(ii) fails to attend the proceedings of the Board consecutively for three months without any valid reason; or

(iii) fails to attend less than three-fourths of the sittings in a year; or

(iv) becomes ineligible under sub-section (4) during his term as a member.

5. Where an inquiry has been initiated in respect of any child under this Act, and during the course of such inquiry, the child completes the age of eighteen years, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued by the Board and orders may be passed in respect of such person as if such person had continued to be a child.

Placement of person, who cease to be a child during process of inquiry.

6. (1) Any person, who has completed eighteen years of age, and is apprehended for committing an offence when he was below the age of eighteen years, then, such person shall, subject to the provisions of this section, be treated as a child during the process of inquiry.

Placement of persons, who committed an offence, when person was below the age of eighteen years.

(2) The person referred to in sub-section (1), if not released on bail by the Board shall be placed in a place of safety during the process of inquiry.

(3) The person referred to in sub-section (1) shall be treated as per the procedure specified under the provisions of this Act.

7. (1) The Board shall meet at such times and shall observe such rules in regard to the transaction of business at its meetings, as may be prescribed and shall ensure that all procedures are child friendly and that the venue is not intimidating to the child and does not resemble as regular courts.

Procedure in relation to Board.

(2) A child in conflict with law may be produced before an individual member of the Board, when the Board is not in sitting.

(3) A Board may act notwithstanding the absence of any member of the Board, and no order passed by the Board shall be invalid by the reason only of the absence of any member during any stage of proceedings:

Provided that there shall be atleast two members including the Principal Magistrate present at the time of final disposal of the case or in making an order under sub-section (3) of section 18.

(4) In the event of any difference of opinion among the members of the Board in the interim or final disposal, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Principal Magistrate, shall prevail.

8. (1) Notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, the Board constituted for any district shall have the power to deal exclusively with all the proceedings under this Act, relating to children in conflict with law, in the area of jurisdiction of such Board.

Powers, functions and responsibilities of the Board.

(2) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Children's Court, when the proceedings come before them under section 19 or in appeal, revision or otherwise.

(3) The functions and responsibilities of the Board shall include—

(a) ensuring the informed participation of the child and the parent or guardian, in every step of the process;



(b) ensuring that the child's rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation;

(c) ensuring availability of legal aid for the child through the legal services institutions;

(d) wherever necessary the Board shall provide an interpreter or translator, having such qualifications, experience, and on payment of such fees as may be prescribed, to the child if he fails to understand the language used in the proceedings;

(e) directing the Probation Officer, or in case a Probation Officer is not available to the Child Welfare Officer or a social worker, to undertake a social investigation into the case and submit a social investigation report within a period of fifteen days from the date of first production before the Board to ascertain the circumstances in which the alleged offence was committed;

(f) adjudicate and dispose of cases of children in conflict with law in accordance with the process of inquiry specified in section 14;

(g) transferring to the Committee, matters concerning the child alleged to be in conflict with law, stated to be in need of care and protection at any stage, thereby recognising that a child in conflict with law can also be a child in need of care simultaneously and there is a need for the Committee and the Board to be both involved;

(h) disposing of the matter and passing a final order that includes an individual care plan for the child's rehabilitation, including follow up by the Probation Officer or the District Child Protection Unit or a member of a non-governmental organisation, as may be required;

(i) conducting inquiry for declaring fit persons regarding care of children in conflict with law;

(j) conducting at least one inspection visit every month of residential facilities for children in conflict with law and recommend action for improvement in quality of services to the District Child Protection Unit and the State Government;

(k) order the police for registration of first information report for offences committed against any child in conflict with law, under this Act or any other law for the time being in force, on a complaint made in this regard;

(l) order the police for registration of first information report for offences committed against any child in need of care and protection, under this Act or any other law for the time being in force, on a written complaint by a Committee in this regard;

(m) conducting regular inspection of jails meant for adults to check if any child is lodged in such jails and take immediate measures for transfer of such a child to the observation home; and

(n) any other function as may be prescribed.

Procedure to be followed by a Magistrate who has not been empowered under this Act.

9. (1) When a Magistrate, not empowered to exercise the powers of the Board under this Act is of the opinion that the person alleged to have committed the offence and brought before him is a child, he shall, without any delay, record such opinion and forward the child immediately along with the record of such proceedings to the Board having jurisdiction.

(2) In case a person alleged to have committed an offence claims before a court other than a Board, that the person is a child or was a child on the date of commission of the offence, or if the court itself is of the opinion that the person was a child on the date of commission of the offence, the said court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) to determine the age of such person, and shall record a finding on the matter, stating the age of the person as nearly as may be:

Provided that such a claim may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such a claim shall be determined in accordance with the provisions contained in this Act and the rules made thereunder even if the person has ceased to be a child on or before the date of commencement of this Act.



(3) If the court finds that a person has committed an offence and was a child on the date of commission of such offence, it shall forward the child to the Board for passing appropriate orders and the sentence, if any, passed by the court shall be deemed to have no effect.

(4) In case a person under this section is required to be kept in protective custody, while the person's claim of being a child is being inquired into, such person may be placed, in the intervening period in a place of safety.

#### CHAPTER IV

##### PROCEDURE IN RELATION TO CHILDREN IN CONFLICT WITH LAW

10. (1) As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, who shall produce the child before the Board without any loss of time but within a period of twenty-four hours of apprehending the child excluding the time necessary for the journey, from the place where such child was apprehended:

Apprehension of child alleged to be in conflict with law.

Provided that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail.

(2) The State Government shall make rules consistent with this Act,—

(i) to provide for persons through whom (including registered voluntary or non-governmental organisations) any child alleged to be in conflict with law may be produced before the Board;

(ii) to provide for the manner in which the child alleged to be in conflict with law may be sent to an observation home or place of safety, as the case may be.

11. Any person in whose charge a child in conflict with law is placed, shall while the order is in force, have responsibility of the said child, as if the said person was the child's parent and responsible for the child's maintenance:

Role of person in whose charge child in conflict with law is placed.

Provided that the child shall continue in such person's charge for the period stated by the Board, notwithstanding that the said child is claimed by the parents or any other person except when the Board is of the opinion that the parent or any other person are fit to exercise charge over such child.

12. (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Bail to a person who is apparently a child alleged to be in conflict with law.

2 of 1974.

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.



(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.

Information to parents, guardian or probation officer.

13. (1) Where a child alleged to be in conflict with law is apprehended, the officer designated as Child Welfare Police Officer of the police station, or the special juvenile police unit to which such child is brought, shall, as soon as possible after apprehending the child, inform—

(i) the parent or guardian of such child, if they can be found, and direct them to be present at the Board before which the child is produced; and

(ii) the probation officer, or if no probation officer is available, a Child Welfare Officer, for preparation and submission within two weeks to the Board, a social investigation report containing information regarding the antecedents and family background of the child and other material circumstances likely to be of assistance to the Board for making the inquiry.

(2) Where a child is released on bail, the probation officer or the Child Welfare Officer shall be informed by the Board.

Inquiry by Board regarding child in conflict with law.

14. (1) Where a child alleged to be in conflict with law is produced before Board, the Board shall hold an inquiry in accordance with the provisions of this Act and may pass such orders in relation to such child as it deems fit under sections 17 and 18 of this Act.

(2) The inquiry under this section shall be completed within a period of four months from the date of first production of the child before the Board, unless the period is extended, for a maximum period of two more months by the Board, having regard to the circumstances of the case and after recording the reasons in writing for such extension.

(3) A preliminary assessment in case of heinous offences under section 15 shall be disposed of by the Board within a period of three months from the date of first production of the child before the Board.

(4) If inquiry by the Board under sub-section (2) for petty offences remains inconclusive even after the extended period, the proceedings shall stand terminated:

Provided that for serious or heinous offences, in case the Board requires further extension of time for completion of inquiry, the same shall be granted by the Chief Judicial Magistrate or, as the case may be, the Chief Metropolitan Magistrate, for reasons to be recorded in writing.

(5) The Board shall take the following steps to ensure fair and speedy inquiry, namely:—

(a) at the time of initiating the inquiry, the Board shall satisfy itself that the child in conflict with law has not been subjected to any ill-treatment by the police or by any other person, including a lawyer or probation officer and take corrective steps in case of such ill-treatment;

(b) in all cases under the Act, the proceedings shall be conducted in simple manner as possible and care shall be taken to ensure that the child, against whom the proceedings have been instituted, is given child-friendly atmosphere during the proceedings;

(c) every child brought before the Board shall be given the opportunity of being heard and participate in the inquiry;

(d) cases of petty offences, shall be disposed of by the Board through summary proceedings, as per the procedure prescribed under the Code of Criminal Procedure, 1973;

(e) inquiry of serious offences shall be disposed of by the Board, by following the procedure, for trial in summons cases under the Code of Criminal Procedure, 1973;

2 of 1974.

2 of 1974.



(f) inquiry of heinous offences,—

(i) for child below the age of sixteen years as on the date of commission of an offence shall be disposed of by the Board under clause (e);

(ii) for child above the age of sixteen years as on the date of commission of an offence shall be dealt with in the manner prescribed under section 15.

15. (1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub-section (3) of section 18:

Preliminary assessment into heinous offences by Board.

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

*Explanation.*—For the purposes of this section, it is clarified that preliminary assessment is not a trial, but is to assess the capacity of such child to commit and understand the consequences of the alleged offence.

(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973:

2 of 1974.

Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101:

Provided further that the assessment under this section shall be completed within the period specified in section 14.

16. (1) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall review the pendency of cases of the Board once in every three months, and shall direct the Board to increase the frequency of its sittings or may recommend the constitution of additional Boards.

Review of pendency of inquiry.

(2) The number of cases pending before the Board, duration of such pendency, nature of pendency and reasons thereof shall be reviewed in every six months by a high level committee consisting of the Executive Chairperson of the State Legal Services Authority, who shall be the Chairperson, the Home Secretary, the Secretary responsible for the implementation of this Act in the State and a representative from a voluntary or non-governmental organisation to be nominated by the Chairperson.

(3) The information of such pendency shall also be furnished by the Board to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate and the District Magistrate on quarterly basis in such form as may be prescribed by the State Government.

17. (1) Where a Board is satisfied on inquiry that the child brought before it has not committed any offence, then notwithstanding anything contrary contained in any other law for the time being in force, the Board shall pass order to that effect.

Orders regarding a child not found to be in conflict with law.

(2) In case it appears to the Board that the child referred to in sub-section (1) is in need of care and protection, it may refer the child to the Committee with appropriate directions.

18. (1) Where a Board is satisfied on inquiry that a child irrespective of age has committed a petty offence, or a serious offence, or a child below the age of sixteen years has committed a heinous offence, then, notwithstanding anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific need for

Orders regarding child found to be in conflict with law.



supervision or intervention, circumstances as brought out in the social investigation report and past conduct of the child, the Board may, if it so thinks fit,—

(a) allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;

(b) direct the child to participate in group counselling and similar activities;

(c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;

(d) order the child or parents or the guardian of the child to pay fine:

Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;

(e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child's well-being for any period not exceeding three years;

(f) direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child's well-being for any period not exceeding three years;

(g) direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home:

Provided that if the conduct and behaviour of the child has been such that, it would not be in the child's interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.

(2) If an order is passed under clauses (a) to (g) of sub-section (1), the Board may, in addition pass orders to—

(i) attend school; or

(ii) attend a vocational training centre; or

(iii) attend a therapeutic centre; or

(iv) prohibit the child from visiting, frequenting or appearing at a specified place;

or

(v) undergo a de-addiction programme.

(3) Where the Board after preliminary assessment under section 15 pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences.

19. (1) After the receipt of preliminary assessment from the Board under section 15, the Children's Court may decide that—

(i) there is a need for trial of the child as an adult as per the provisions of the Code of Criminal Procedure, 1973 and pass appropriate orders after trial subject to the provisions of this section and section 21, considering the special needs of the child, the tenets of fair trial and maintaining a child friendly atmosphere; 2 of 1974.

(ii) there is no need for trial of the child as an adult and may conduct an inquiry as a Board and pass appropriate orders in accordance with the provisions of section 18.

(2) The Children's Court shall ensure that the final order, with regard to a child in conflict with law, shall include an individual care plan for the rehabilitation of child, including follow up by the probation officer or the District Child Protection Unit or a social worker.

(3) The Children's Court shall ensure that the child who is found to be in conflict with law is sent to a place of safety till he attains the age of twenty-one years and thereafter, the person shall be transferred to a jail:

Provided that the reformatory services including educational services, skill development, alternative therapy such as counselling, behaviour modification therapy, and psychiatric support shall be provided to the child during the period of his stay in the place of safety.

(4) The Children's Court shall ensure that there is a periodic follow up report every year by the probation officer or the District Child Protection Unit or a social worker, as required, to evaluate the progress of the child in the place of safety and to ensure that there is no ill-treatment to the child in any form.

(5) The reports under sub-section (4) shall be forwarded to the Children's Court for record and follow up, as may be required.

20. (1) When the child in conflict with the law attains the age of twenty-one years and is yet to complete the term of stay, the Children's Court shall provide for a follow up by the probation officer or the District Child Protection Unit or a social worker or by itself, as required, to evaluate if such child has undergone reformatory changes and if the child can be a contributing member of the society and for this purpose the progress records of the child under sub-section (4) of section 19, along with evaluation of relevant experts are to be taken into consideration.

Child attained age of twenty-one years and yet to complete prescribed term of stay in place of safety.

(2) After the completion of the procedure specified under sub-section (1), the Children's Court may—

(i) decide to release the child on such conditions as it deems fit which includes appointment of a monitoring authority for the remainder of the prescribed term of stay;

(ii) decide that the child shall complete the remainder of his term in a jail:

Provided that each State Government shall maintain a list of monitoring authorities and monitoring procedures as may be prescribed.

21. No child in conflict with law shall be sentenced to death or for life imprisonment without the possibility of release, for any such offence, either under the provisions of this Act or under the provisions of the Indian Penal Code or any other law for the time being in force.

Order that may not be passed against a child in conflict with law.

22. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973, or any preventive detention law for the time being in force, no proceeding shall be instituted and no order shall be passed against any child under Chapter VIII of the said Code.

Proceeding under Chapter VIII of the Code of Criminal Procedure not to apply against child.

23. (1) Notwithstanding anything contained in section 223 of the Code of Criminal Procedure, 1973 or in any other law for the time being in force, there shall be no joint proceedings of a child alleged to be in conflict with law, with a person who is not a child.

No joint proceedings of child in conflict with law and person not a child.

(2) If during the inquiry by the Board or by the Children's Court, the person alleged to be in conflict with law is found that he is not a child, such person shall not be tried along with a child.

45 of 1860.

2 of 1974.

2 of 1974.



Removal of  
disqualification  
on the findings  
of an offence.

24. (1) Notwithstanding anything contained in any other law for the time being in force, a child who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attached to a conviction of an offence under such law:

Provided that in case of a child who has completed or is above the age of sixteen years and is found to be in conflict with law by the Children's Court under clause (i) of sub-section (1) of section 19, the provisions of sub-section (1) shall not apply.

(2) The Board shall make an order directing the Police, or by the Children's court to its own registry that the relevant records of such conviction shall be destroyed after the expiry of the period of appeal or, as the case may be, a reasonable period as may be prescribed:

Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19, the relevant records of conviction of such child shall be retained by the Children's Court.

Special  
provision in  
respect of  
pending cases.

25. Notwithstanding anything contained in this Act, all proceedings in respect of a child alleged or found to be in conflict with law pending before any Board or court on the date of commencement of this Act, shall be continued in that Board or court as if this Act had not been enacted.

Provision  
with respect  
of run away  
child in  
conflict with  
law.

26. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, any police officer may take charge of a child in conflict with law who has run away from a special home or an observation home or a place of safety or from the care of a person or institution under whom the child was placed under this Act.

(2) The child referred to in sub-section (1) shall be produced, within twenty-four hours, preferably before the Board which passed the original order in respect of that child, if possible, or to the nearest Board where the child is found.

(3) The Board shall ascertain the reasons for the child having run away and pass appropriate orders for the child to be sent back either to the institution or person from whose custody the child had run away or any other similar place or person, as the Board may deem fit:

Provided that the Board may also give additional directions regarding any special steps that may be deemed necessary, for the best interest of the child.

(4) No additional proceeding shall be instituted in respect of such child.

## CHAPTER V

### CHILD WELFARE COMMITTEE

Child Welfare  
Committee.

27. (1) The State Government shall by notification in the Official Gazette constitute for every district, one or more Child Welfare Committees for exercising the powers and to discharge the duties conferred on such Committees in relation to children in need of care and protection under this Act and ensure that induction training and sensitisation of all members of the committee is provided within two months from the date of notification.

(2) The Committee shall consist of a Chairperson, and four other members as the State Government may think fit to appoint, of whom atleast one shall be a woman and another, an expert on the matters concerning children.

(3) The District Child Protection Unit shall provide a Secretary and other staff that may be required for secretarial support to the Committee for its effective functioning.

(4) No person shall be appointed as a member of the Committee unless such person has been actively involved in health, education or welfare activities pertaining to children for atleast seven years or is a practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human development.

(5) No person shall be appointed as a member unless he possesses such other qualifications as may be prescribed.

(6) No person shall be appointed for a period of more than three years as a member of the Committee.



(7) The appointment of any member of the Committee shall be terminated by the State Government after making an inquiry, if—

(i) he has been found guilty of misuse of power vested on him under this Act;

(ii) he has been convicted of an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

(iii) he fails to attend the proceedings of the Committee consecutively for three months without any valid reason or he fails to attend less than three-fourths of the sittings in a year.

(8) The District Magistrate shall conduct a quarterly review of the functioning of the Committee.

2 of 1974.

(9) The Committee shall function as a Bench and shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class.

(10) The District Magistrate shall be the grievances redressal authority for the Child Welfare Committee and anyone connected with the child, may file a petition before the District Magistrate, who shall consider and pass appropriate orders.

28. (1) The Committee shall meet at least twenty days in a month and shall observe such rules and procedures with regard to the transaction of business at its meetings, as may be prescribed.

Procedure in relation to Committee.

(2) A visit to an existing child care institution by the Committee, to check its functioning and well being of children shall be considered as a sitting of the Committee.

(3) A child in need of care and protection may be produced before an individual member of the Committee for being placed in a Children's Home or fit person when the Committee is not in session.

(4) In the event of any difference of opinion among the members of the Committee at the time of taking any decision, the opinion of the majority shall prevail but where there is no such majority, the opinion of the Chairperson shall prevail.

(5) Subject to the provisions of sub-section (1), the Committee may act, notwithstanding the absence of any member of the Committee, and no order made by the Committee shall be invalid by reason only of the absence of any member during any stage of the proceeding:

Provided that there shall be at least three members present at the time of final disposal of the case.

29. (1) The Committee shall have the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection.

Powers of Committee.

(2) Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force, but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.

30. The functions and responsibilities of the Committee shall include—

Functions and responsibilities of Committee.

(i) taking cognizance of and receiving the children produced before it;

(ii) conducting inquiry on all issues relating to and affecting the safety and well-being of the children under this Act;

(iii) directing the Child Welfare Officers or probation officers or District Child Protection Unit or non-governmental organisations to conduct social investigation and submit a report before the Committee;



- (iv) conducting inquiry for declaring fit persons for care of children in need of care and protection;
- (v) directing placement of a child in foster care;
- (vi) ensuring care, protection, appropriate rehabilitation or restoration of children in need of care and protection, based on the child's individual care plan and passing necessary directions to parents or guardians or fit persons or children's homes or fit facility in this regard;
- (vii) selecting registered institution for placement of each child requiring institutional support, based on the child's age, gender, disability and needs and keeping in mind the available capacity of the institution;
- (viii) conducting at least two inspection visits per month of residential facilities for children in need of care and protection and recommending action for improvement in quality of services to the District Child Protection Unit and the State Government;
- (ix) certifying the execution of the surrender deed by the parents and ensuring that they are given time to reconsider their decision as well as making all efforts to keep the family together;
- (x) ensuring that all efforts are made for restoration of abandoned or lost children to their families following due process, as may be prescribed;
- (xi) declaration of orphan, abandoned and surrendered child as legally free for adoption after due inquiry;
- (xii) taking *suo motu* cognizance of cases and reaching out to children in need of care and protection, who are not produced before the Committee, provided that such decision is taken by at least three members;
- (xiii) taking action for rehabilitation of sexually abused children who are reported as children in need of care and protection to the Committee by Special Juvenile Police Unit or local police, as the case may be, under the Protection of Children from Sexual Offences Act, 2012;
- (xiv) dealing with cases referred by the Board under sub-section (2) of section 17;
- (xv) co-ordinate with the police, labour department and other agencies involved in the care and protection of children with support of the District Child Protection Unit or the State Government;
- (xvi) in case of a complaint of abuse of a child in any child care institution, the Committee shall conduct an inquiry and give directions to the police or the District Child Protection Unit or labour department or childline services, as the case may be;
- (xvii) accessing appropriate legal services for children;
- (xviii) such other functions and responsibilities, as may be prescribed.

32 of 2012.

## CHAPTER VI

### PROCEDURE IN RELATION TO CHILDREN IN NEED OF CARE AND PROTECTION

**31. (1)** Any child in need of care and protection may be produced before the Committee by any of the following persons, namely:—

- (i) any police officer or special juvenile police unit or a designated Child Welfare Police Officer or any officer of District Child Protection Unit or inspector appointed under any law for the time being in force;
- (ii) any public servant;

Production  
before  
Committee.

(iii) Childline Services or any voluntary or non-governmental organisation or any agency as may be recognised by the State Government;

(iv) Child Welfare Officer or probation officer;

(v) any social worker or a public spirited citizen;

(vi) by the child himself; or

(vii) any nurse, doctor or management of a nursing home, hospital or maternity home:

Provided that the child shall be produced before the Committee without any loss of time but within a period of twenty-four hours excluding the time necessary for the journey.

(2) The State Government may make rules consistent with this Act, to provide for the manner of submitting the report to the Committee and the manner of sending and entrusting the child to children's home or fit facility or fit person, as the case may be, during the period of the inquiry.

32. (1) Any individual or a police officer or any functionary of any organisation or a nursing home or hospital or maternity home, who or which finds and takes charge, or is handed over a child who appears or claims to be abandoned or lost, or a child who appears or claims to be an orphan without family support, shall within twenty-four hours (excluding the time necessary for the journey), give information to the Childline Services or the nearest police station or to a Child Welfare Committee or to the District Child Protection Unit, or hand over the child to a child care institution registered under this Act, as the case may be.

Mandatory reporting regarding a child found separated from guardian.

(2) The information regarding a child referred to in sub-section (1) shall be mandatorily uploaded on a portal as may be specified by the Central Government or the Committee or the District Child Protection Unit or the child care institution, as the case may be.

33. If information regarding a child as required under section 32 is not given within the period specified in the said section, then, such act shall be regarded as an offence.

Offence of non-reporting.

34. Any person who has committed an offence under section 33 shall be liable to imprisonment up to six months or fine of ten thousand rupees or both.

Penalty for non-reporting.

35. (1) A parent or guardian, who for physical, emotional and social factors beyond their control, wishes to surrender a child, shall produce the child before the Committee.

Surrender of children.

(2) If, after prescribed process of inquiry and counselling, the Committee is satisfied, a surrender deed shall be executed by the parent or guardian, as the case may be, before the Committee.

(3) The parents or guardian who surrendered the child, shall be given two months time to reconsider their decision and in the intervening period the Committee shall either allow, after due inquiry, the child to be with the parents or guardian under supervision, or place the child in a Specialised Adoption Agency, if he or she is below six years of age, or a children's home if he is above six years.

36. (1) On production of a child or receipt of a report under section 31, the Committee shall hold an inquiry in such manner as may be prescribed and the Committee, on its own or on the report from any person or agency as specified in sub-section (2) of section 31, may pass an order to send the child to the children's home or a fit facility or fit person, and for speedy social investigation by a social worker or Child Welfare Officer or Child Welfare Police Officer:

Inquiry.

Provided that all children below six years of age, who are orphan, surrendered or appear to be abandoned shall be placed in a Specialised Adoption Agency, where available.



(2) The social investigation shall be completed within fifteen days so as to enable the Committee to pass final order within four months of first production of the child:

Provided that for orphan, abandoned or surrendered children, the time for completion of inquiry shall be as specified in section 38.

(3) After the completion of the inquiry, if Committee is of the opinion that the said child has no family or ostensible support or is in continued need of care and protection, it may send the child to a Specialised Adoption Agency if the child is below six years of age, children's home or to a fit facility or person or foster family, till suitable means of rehabilitation are found for the child, as may be prescribed, or till the child attains the age of eighteen years:

Provided that the situation of the child placed in a children's home or with a fit facility or person or a foster family, shall be reviewed by the Committee, as may be prescribed.

(4) The Committee shall submit a quarterly report on the nature of disposal of cases and pendency of cases to the District Magistrate in the manner as may be prescribed, for review of pendency of cases.

(5) After review under sub-section (4), the District Magistrate shall direct the Committee to take necessary remedial measures to address the pendency, if necessary and send a report of such reviews to the State Government, who may cause the constitution of additional Committees, if required:

Provided that if the pendency of cases continues to be unaddressed by the Committee even after three months of receiving such directions, the State Government shall terminate the said Committee and shall constitute a new Committee.

(6) In anticipation of termination of the Committee and in order that no time is lost in constituting a new Committee, the State Government shall maintain a standing panel of eligible persons to be appointed as members of the Committee.

(7) In case of any delay in the constitution of a new Committee under sub-section (5), the Child Welfare Committee of a nearby district shall assume responsibility in the intervening period.

Orders passed regarding a child in need of care and protection.

37.(1) The Committee on being satisfied through the inquiry that the child before the Committee is a child in need of care and protection, may, on consideration of Social Investigation Report submitted by Child Welfare Officer and taking into account the child's wishes in case the child is sufficiently mature to take a view, pass one or more of the following orders, namely:—

(a) declaration that a child is in need of care and protection;

(b) restoration of the child to parents or guardian or family with or without supervision of Child Welfare Officer or designated social worker;

(c) placement of the child in Children's Home or fit facility or Specialised Adoption Agency for the purpose of adoption for long term or temporary care, keeping in mind the capacity of the institution for housing such children, either after reaching the conclusion that the family of the child cannot be traced or even if traced, restoration of the child to the family is not in the best interest of the child;

(d) placement of the child with fit person for long term or temporary care;

(e) foster care orders under section 44;

(f) sponsorship orders under section 45;

(g) directions to persons or institutions or facilities in whose care the child is placed, regarding care, protection and rehabilitation of the child, including directions relating to immediate shelter and services such as medical attention, psychiatric and psychological support including need-based counselling, occupational therapy or



behaviour modification therapy, skill training, legal aid, educational services, and other developmental activities, as required, as well as follow-up and coordination with the District Child Protection Unit or State Government and other agencies;

(h) declaration that the child is legally free for adoption under section 38.

(2) The Committee may also pass orders for —

(i) declaration of fit persons for foster care;

(ii) getting after care support under section 46 of the Act; or

(iii) any other order related to any other function as may be prescribed.

38. (1) In case of orphan and abandoned child, the Committee shall make all efforts for tracing the parents or guardians of the child and on completion of such inquiry, if it is established that the child is either an orphan having no one to take care, or abandoned, the Committee shall declare the child legally free for adoption:

Procedure for declaring a child legally free for adoption.

Provided that such declaration shall be made within a period of two months from the date of production of the child, for children who are up to two years of age and within four months for children above two years of age:

Provided further that notwithstanding anything contained in this regard in any other law for the time being in force, no first information report shall be registered against any biological parent in the process of inquiry relating to an abandoned or surrendered child under this Act.

(2) In case of surrendered child, the institution where the child has been placed by the Committee on an application for surrender, shall bring the case before the Committee immediately on completion of the period specified in section 35, for declaring the child legally free for adoption.

(3) Notwithstanding anything contained in any other law for the time being in force, a child of a mentally retarded parents or a unwanted child of victim of sexual assault, such child may be declared free for adoption by the Committee, by following the procedure under this Act.

(4) The decision to declare an orphan, abandoned or surrendered child as legally free for adoption shall be taken by at least three members of the Committee.

(5) The Committee shall inform the State Agency and the Authority regarding the number of children declared as legally free for adoption and number of cases pending for decision in the manner as may be prescribed, every month.

## CHAPTER VII

### REHABILITATION AND SOCIAL RE-INTEGRATION

39. (1) The process of rehabilitation and social integration of children under this Act shall be undertaken, based on the individual care plan of the child, preferably through family based care such as by restoration to family or guardian with or without supervision or sponsorship, or adoption or foster care:

Process of rehabilitation and social re-integration.

Provided that all efforts shall be made to keep siblings placed in institutional or non-institutional care, together, unless it is in their best interest not to be kept together.

(2) For children in conflict with law the process of rehabilitation and social integration shall be undertaken in the observation homes, if the child is not released on bail or in special homes or place of safety or fit facility or with a fit person, if placed there by the order of the Board.

(3) The children in need of care and protection who are not placed in families for any reason may be placed in an institution registered for such children under this Act or with a



fit person or a fit facility, on a temporary or long-term basis, and the process of rehabilitation and social integration shall be undertaken wherever the child is so placed.

(4) The Children in need of care and protection who are leaving institutional care or children in conflict with law leaving special homes or place of safety on attaining eighteen years of age, may be provided financial support as specified in section 46, to help them to re-integrate into the mainstream of the society.

Restoration  
of child in  
need of care  
and  
protection.

40. (1) The restoration and protection of a child shall be the prime objective of any Children's Home, Specialised Adoption Agency or open shelter.

(2) The Children's Home, Specialised Adoption Agency or an open shelter, as the case may be, shall take such steps as are considered necessary for the restoration and protection of a child deprived of his family environment temporarily or permanently where such child is under their care and protection.

(3) The Committee shall have the powers to restore any child in need of care and protection to his parents, guardian or fit person, as the case may be, after determining the suitability of the parents or guardian or fit person to take care of the child, and give them suitable directions.

*Explanation.*—For the purposes of this section, “restoration and protection of a child” means restoration to—

- (a) parents;
- (b) adoptive parents;
- (c) foster parents;
- (d) guardian; or
- (e) fit person.

Registration  
of child care  
institutions.

41. (1) Notwithstanding anything contained in any other law for the time being in force, all institutions, whether run by a State Government or by voluntary or non-governmental organisations, which are meant, either wholly or partially, for housing children in need of care and protection or children in conflict with law, shall, be registered under this Act in such manner as may be prescribed, within a period of six months from the date of commencement of this Act, regardless of whether they are receiving grants from the Central Government or, as the case may be, the State Government or not:

Provided that the institutions having valid registration under the Juvenile Justice (Care and Protection of Children) Act, 2000 on the date of commencement of this Act shall be deemed to have been registered under this Act. 56 of 2000.

(2) At the time of registration under this section, the State Government shall determine and record the capacity and purpose of the institution and shall register the institution as a Children's Home or open shelter or Specialised Adoption Agency or observation home or special home or place of safety, as the case may be.

(3) On receipt of application for registration under sub-section (1), from an existing or new institution housing children in need of care and protection of children in conflict with law, the State Government may grant provisional registration, within one month from the date of receipt of application, for a maximum period of six months, in order to bring such institution under the purview of this Act, and shall determine the capacity of the Home which shall be mentioned in the registration certificate:

Provided that if the said institution does not fulfill the prescribed criteria for registration, within the period specified in sub-section (1), the provisional registration shall stand cancelled and the provisions of sub-section (5) shall apply.



(4) If the State Government does not issue a provisional registration certificate within one month from the date of application, the proof of receipt of application for registration shall be treated as provisional registration to run an institution for a maximum period of six months.

(5) If the application for registration is not disposed of within six months by any officer or officers of any State Government, it shall be regarded as dereliction of duty on their part by their higher controlling authority and appropriate departmental proceedings shall be initiated.

(6) The period of registration of an institution shall be five years, and it shall be subject to renewal in every five years.

(7) The State Government may, after following the procedure as may be prescribed, cancel or withhold registration, as the case may be, of such institutions which fail to provide rehabilitation and reintegration services as specified in section 53 and till such time that the registration of an institution is renewed or granted, the State Government shall manage the institution.

(8) Any child care institution registered under this section shall be duty bound to admit children, subject to the capacity of the institution, as directed by the Committee, whether they are receiving grants from the Central Government or, as the case may be, the State Government or not.

(9) Notwithstanding anything contained in any other law for the time being in force, the inspection committee appointed under section 54, shall have the powers to inspect any institution housing children, even if not registered under this Act to determine whether such institution is housing children in need of care and protection.

42. Any person, or persons, in-charge of an institution housing children in need of care and protection and children in conflict with law, who fails to comply with the provisions of sub-section (1) of section 41, shall be punished with imprisonment which may extend to one year or a fine of not less than one lakh rupees or both:

Penalty for non-registration of child care institutions.

Provided that every thirty days delay in applying for registration shall be considered as a separate offence.

43. (1) The State Government may establish and maintain, by itself or through voluntary or non-governmental organisations, as many open shelters as may be required, and such open shelters shall be registered as such, in the manner as may be prescribed.

Open shelter.

(2) The open shelters referred to in sub-section (1) shall function as a community based facility for children in need of residential support, on short term basis, with the objective of protecting them from abuse or weaning them, or keeping them, away from a life on the streets.

(3) The open shelters shall send every month information, in the manner as may be prescribed, regarding children availing the services of the shelter, to the District Child Protection Unit and the Committee.

44. (1) The children in need of care and protection may be placed in foster care, including group foster care for their care and protection through orders of the Committee, after following the procedure as may be prescribed in this regard, in a family which does not include the child's biological or adoptive parents or in an unrelated family recognised as suitable for the purpose by the State Government, for a short or extended period of time.

Foster care.

(2) The selection of the foster family shall be based on family's ability, intent, capacity and prior experience of taking care of children.

(3) All efforts shall be made to keep siblings together in foster families, unless it is in their best interest not to be kept together.



(4) The State Government, after taking into account the number of children, shall provide monthly funding for such foster care through District Child Protection Unit after following the procedure, as may be prescribed, for inspection to ensure well being of the children.

(5) In cases where children have been placed in foster care for the reason that their parents have been found to be unfit or incapacitated by the Committee, the child's parents may visit the child in the foster family at regular intervals, unless the Committee feels that such visits are not in the best interest of the child, for reasons to be recorded therefor; and eventually, the child may return to the parent's homes once the parents are determined by the Committee to be fit to take care of the child.

(6) The foster family shall be responsible for providing education, health and nutrition to the child and shall ensure the overall well being of the child in such manner, as may be prescribed.

(7) The State Government may make rules for the purpose of defining the procedure, criteria and the manner in which foster care services shall be provided for children.

(8) The inspection of foster families shall be conducted every month by the Committee in the form as may be prescribed to check the well-being of the child and whenever a foster family is found lacking in taking care of the child, the child shall be removed from that foster family and shifted to another foster family as the Committee may deem fit.

(9) No child regarded as adoptable by the Committee shall be given for long-term foster care.

Sponsorship.

45. (1) The State Government shall make rules for the purpose of undertaking various programmes of sponsorship of children, such as individual to individual sponsorship, group sponsorship or community sponsorship.

(2) The criteria for sponsorship shall include,—

- (i) where mother is a widow or divorced or abandoned by family;
- (ii) where children are orphan and are living with the extended family;
- (iii) where parents are victims of life threatening disease;
- (iv) where parents are incapacitated due to accident and unable to take care of children both financially and physically.

(3) The duration of sponsorship shall be such as may be prescribed.

(4) The sponsorship programme may provide supplementary support to families, to Children's Homes and to special homes to meet medical, nutritional, educational and other needs of the children, with a view to improving their quality of life.

After care of children leaving child care institution.

46. Any child leaving a child care institution on completion of eighteen years of age may be provided with financial support in order to facilitate child's re-integration into the mainstream of the society in the manner as may be prescribed.

Observation homes.

47. (1) The State Government shall establish and maintain in every district or a group of districts, either by itself, or through voluntary or non-governmental organisations, observation homes, which shall be registered under section 41 of this Act, for temporary reception, care and rehabilitation of any child alleged to be in conflict with law, during the pendency of any inquiry under this Act.

(2) Where the State Government is of the opinion that any registered institution other than a home established or maintained under sub-section (1), is fit for the temporary reception of such child alleged to be in conflict with law during the pendency of any inquiry under this Act, it may register such institution as an observation home for the purposes of this Act.



(3) The State Government may, by rules made under this Act, provide for the management and monitoring of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a child alleged to be in conflict with law and the circumstances under which, and the manner in which, the registration of an observation home may be granted or withdrawn.

(4) Every child alleged to be in conflict with law who is not placed under the charge of parent or guardian and is sent to an observation home shall be segregated according to the child's age and gender, after giving due consideration to physical and mental status of the child and degree of the offence committed.

48. (1) The State Government may establish and maintain either by itself or through voluntary or non-governmental organisations, special homes, which shall be registered as such, in the manner as may be prescribed, in every district or a group of districts, as may be required for rehabilitation of those children in conflict with law who are found to have committed an offence and who are placed there by an order of the Juvenile Justice Board made under section 18.

Special homes.

(2) The State Government may, by rules, provide for the management and monitoring of special homes, including the standards and various types of services to be provided by them which are necessary for social re-integration of a child, and the circumstances under which, and the manner in which, the registration of a special home may be granted or withdrawn.

(3) The rules made under sub-section (2) may also provide for the segregation and separation of children found to be in conflict with law on the basis of age, gender, the nature of offence committed by them and the child's mental and physical status.

49. (1) The State Government shall set up atleast one place of safety in a State registered under section 41, so as to place a person above the age of eighteen years or child in conflict with law, who is between the age of sixteen to eighteen years and is accused of or convicted for committing a heinous offence.

Place of safety.

(2) Every place of safety shall have separate arrangement and facilities for stay of such children or persons during the process of inquiry and children or persons convicted of committing an offence.

(3) The State Government may, by rules, prescribe the types of places that can be designated as place of safety under sub-section (1) and the facilities and services that may be provided therein.

50. (1) The State Government may establish and maintain, in every district or group of districts, either by itself or through voluntary or non-governmental organisations, Children's Homes, which shall be registered as such, for the placement of children in need of care and protection for their care, treatment, education, training, development and rehabilitation.

Children's Home.

(2) The State Government shall designate any Children's Home as a home fit for children with special needs delivering specialised services, depending on requirement.

(3) The State Government may, by rules, provide for the monitoring and management of Children's Homes including the standards and the nature of services to be provided by them, based on individual care plans for each child.

51. (1) The Board or the Committee shall recognise a facility being run by a Governmental organisation or a voluntary or non-governmental organisation registered under any law for the time being in force to be fit to temporarily take the responsibility of a child for a specific purpose after due inquiry regarding the suitability of the facility and the organisation to take care of the child in such manner as may be prescribed.

Fit facility.

(2) The Board or the Committee may withdraw the recognition under sub-section (1) for reasons to be recorded in writing.



Fit person.

52. (1) The Board or the Committee shall, after due verification of credentials, recognise any person fit to temporarily receive a child for care, protection and treatment of such child for a specified period and in the manner as may be prescribed.

(2) The Board or Committee, as the case may be, may withdraw the recognition granted under sub-section (1) for reasons to be recorded in writing.

Rehabilitation and re-integration services in institutions registered under this Act and management thereof.

53. (1) The services that shall be provided, by the institutions registered under this Act in the process of rehabilitation and re-integration of children, shall be in such manner as may be prescribed, which may include—

(i) basic requirements such as food, shelter, clothing and medical attention as per the prescribed standards;

(ii) equipment such as wheel-chairs, prosthetic devices, hearing aids, braille kits, or any other suitable aids and appliances as required, for children with special needs;

(iii) appropriate education, including supplementary education, special education, and appropriate education for children with special needs:

Provided that for children between the age of six to fourteen years, the provisions of the Right of Children to Free and Compulsory Education Act, 2009 shall apply; 35 of 2009.

(iv) skill development;

(v) occupational therapy and life skill education;

(vi) mental health interventions, including counselling specific to the need of the child;

(vii) recreational activities including sports and cultural activities;

(viii) legal aid where required;

(ix) referral services for education, vocational training, de-addiction, treatment of diseases where required;

(x) case management including preparation and follow up of individual care plan;

(xi) birth registration;

(xii) assistance for obtaining the proof of identity, where required; and

(xiii) any other service that may reasonably be provided in order to ensure the well-being of the child, either directly by the State Government, registered or fit individuals or institutions or through referral services.

(2) Every institution shall have a Management Committee, to be set up in a manner as may be prescribed, to manage the institution and monitor the progress of every child.

(3) The officer in-charge of every institution, housing children above six years of age, shall facilitate setting up of children's committees for participating in such activities as may be prescribed, for the safety and well-being of children in the institution.

Inspection of institutions registered under this Act.

54. (1) The State Government shall appoint inspection committees for the State and district, as the case may be, for all institutions registered or recognised to be fit under this Act for such period and for such purposes, as may be prescribed.

(2) Such inspection committees shall mandatorily conduct visits to all facilities housing children in the area allocated, at least once in three months in a team of not less than three members, of whom at least one shall be a woman and one shall be a medical officer, and submit reports of the findings of such visits within a week of their visit, to the District Child Protection Units or State Government, as the case may be, for further action.



(3) On the submission of the report by the inspection committee within a week of the inspection, appropriate action shall be taken within a month by the District Child Protection Unit or the State Government and a compliance report shall be submitted to the State Government.

55. (1) The Central Government or State Government may independently evaluate the functioning of the Board, Committee, special juvenile police units, registered institutions, or recognised fit facilities and persons, at such period and through such persons or institutions as may be prescribed by that Government.

Evaluation of functioning of structures.

(2) In case such independent evaluation is conducted by both the Governments, the evaluation made by the Central Government shall prevail.

#### CHAPTER VIII

##### ADOPTION

56. (1) Adoption shall be resorted to for ensuring right to family for the orphan, abandoned and surrendered children, as per the provisions of this Act, the rules made thereunder and the adoption regulations framed by the Authority.

Adoption.

(2) Adoption of a child from a relative by another relative, irrespective of their religion, can be made as per the provisions of this Act and the adoption regulations framed by the Authority.

78 of 1956.

(3) Nothing in this Act shall apply to the adoption of children made under the provisions of the Hindu Adoption and Maintenance Act, 1956.

(4) All inter-country adoptions shall be done only as per the provisions of this Act and the adoption regulations framed by the Authority.

(5) Any person, who takes or sends a child to a foreign country or takes part in any arrangement for transferring the care and custody of a child to another person in a foreign country without a valid order from the Court, shall be punishable as per the provisions of section 80.

57. (1) The prospective adoptive parents shall be physically fit, financially sound, mentally alert and highly motivated to adopt a child for providing a good upbringing to him.

Eligibility of prospective adoptive parents.

(2) In case of a couple, the consent of both the spouses for the adoption shall be required.

(3) A single or divorced person can also adopt, subject to fulfilment of the criteria and in accordance with the provisions of adoption regulations framed by the Authority.

(4) A single male is not eligible to adopt a girl child.

(5) Any other criteria that may be specified in the adoption regulations framed by the Authority.

58. (1) Indian prospective adoptive parents living in India, irrespective of their religion, if interested to adopt an orphan or abandoned or surrendered child, may apply for the same to a Specialised Adoption Agency, in the manner as provided in the adoption regulations framed by the Authority.

Procedure for adoption by Indian prospective adoptive parents living in India.

(2) The Specialised Adoption Agency shall prepare the home study report of the prospective adoptive parents and upon finding them eligible, will refer a child declared legally free for adoption to them along with the child study report and medical report of the child, in the manner as provided in the adoption regulations framed by the Authority.

(3) On the receipt of the acceptance of the child from the prospective adoptive parents along with the child study report and medical report of the child signed by such parents, the Specialised Adoption Agency shall give the child in pre-adoption foster care and file an application in the court for obtaining the adoption order, in the manner as provided in the adoption regulations framed by the Authority.

(4) On the receipt of a certified copy of the court order, the Specialised Adoption Agency shall send immediately the same to the prospective adoptive parents.



Procédure for  
inter-country  
adoption of  
an orphan or  
abandoned or  
surrendered  
child.

(5) The progress and wellbeing of the child in the adoptive family shall be followed up and ascertained in the manner as provided in the adoption regulations framed by the Authority.

59. (1) If an orphan or abandoned or surrendered child could not be placed with an Indian or non-resident Indian prospective adoptive parent despite the joint effort of the Specialised Adoption Agency and State Agency within sixty days from the date the child has been declared legally free for adoption, such child shall be free for inter-country adoption:

Provided that children with physical and mental disability, siblings and children above five years of age may be given preference over other children for such inter-country adoption, in accordance with the adoption regulations, as may be framed by the Authority.

(2) An eligible non-resident Indian or overseas citizen of India or persons of Indian origin shall be given priority in inter-country adoption of Indian children.

(3) A non-resident Indian or overseas citizen of India, or person of Indian origin or a foreigner, who are prospective adoptive parents living abroad, irrespective of their religion, if interested to adopt an orphan or abandoned or surrendered child from India, may apply for the same to an authorised foreign adoption agency, or Central Authority or a concerned Government department in their country of habitual residence, as the case may be, in the manner as provided in the adoption regulations framed by the Authority.

(4) The authorised foreign adoption agency, or Central Authority, or a concerned Government department, as the case may be, shall prepare the home study report of such prospective adoptive parents and upon finding them eligible, will sponsor their application to Authority for adoption of a child from India, in the manner as provided in the adoption regulations framed by the Authority.

(5) On the receipt of the application of such prospective adoptive parents, the Authority shall examine and if it finds the applicants suitable, then, it will refer the application to one of the Specialised Adoption Agencies, where children legally free for adoption are available.

(6) The Specialised Adoption Agency will match a child with such prospective adoptive parents and send the child study report and medical report of the child to such parents, who in turn may accept the child and return the child study and medical report duly signed by them to the said agency.

(7) On receipt of the acceptance of the child from the prospective adoptive parents, the Specialised Adoption Agency shall file an application in the court for obtaining the adoption order, in the manner as provided in the adoption regulations framed by the Authority.

(8) On the receipt of a certified copy of the court order, the specialised adoption agency shall send immediately the same to Authority, State Agency and to the prospective adoptive parents, and obtain a passport for the child.

(9) The Authority shall intimate about the adoption to the immigration authorities of India and the receiving country of the child.

(10) The prospective adoptive parents shall receive the child in person from the specialised adoption agency as soon as the passport and visa are issued to the child.

(11) The authorised foreign adoption agency, or Central Authority, or the concerned Government department, as the case may be, shall ensure the submission of progress reports about the child in the adoptive family and will be responsible for making alternative arrangement in the case of any disruption, in consultation with Authority and concerned Indian diplomatic mission, in the manner as provided in the adoption regulations framed by the Authority.

(12) A foreigner or a person of Indian origin or an overseas citizen of India, who has habitual residence in India, if interested to adopt a child from India, may apply to Authority for the same along with a no objection certificate from the diplomatic mission of his country in India, for further necessary actions as provided in the adoption regulations framed by the Authority.



60. (1) A relative living abroad, who intends to adopt a child from his relative in India shall obtain an order from the court and apply for no objection certificate from Authority, in the manner as provided in the adoption regulations framed by the Authority.

Procedure for inter-country relative adoption.

(2) The Authority shall on receipt of the order under sub-section (1) and the application from either the biological parents or from the adoptive parents, issue no objection certificate under intimation to the immigration authority of India and of the receiving country of the child.

(3) The adoptive parents shall, after receiving no objection certificate under sub-section (2), receive the child from the biological parents and shall facilitate the contact of the adopted child with his siblings and biological parents from time to time.

61. (1) Before issuing an adoption order, the court shall satisfy itself that —

(a) the adoption is for the welfare of the child; (b) due consideration is given to the wishes of the child having regard to the age and understanding of the child; and (c) that neither the prospective adoptive parents has given or agreed to give nor the specialised adoption agency or the parent or guardian of the child in case of relative adoption has received or agreed to receive any payment or reward in consideration of the adoption, except as permitted under the adoption regulations framed by the Authority towards the adoption fees or service charge or child care corpus.

Court procedure and penalty against payment in consideration of adoption.

(2) The adoption proceedings shall be held *in camera* and the case shall be disposed of by the court within a period of two months from the date of filing.

62. (1) The documentation and other procedural requirements, not expressly provided in this Act with regard to the adoption of an orphan, abandoned and surrendered child by Indian prospective adoptive parents living in India, or by non-resident Indian or overseas citizen of India or person of Indian origin or foreigner prospective adoptive parents, shall be as per the adoption regulations framed by the Authority.

Additional procedural requirements and documentation.

(2) The specialised adoption agency shall ensure that the adoption case of prospective adoptive parents is disposed of within four months from the date of receipt of application and the authorised foreign adoption agency, Authority and State Agency shall track the progress of the adoption case and intervene wherever necessary, so as to ensure that the time line is adhered to.

63. A child in respect of whom an adoption order is issued by the court, shall become the child of the adoptive parents, and the adoptive parents shall become the parents of the child as if the child had been born to the adoptive parents, for all purposes, including intestacy, with effect from the date on which the adoption order takes effect, and on and from such date all the ties of the child in the family of his or her birth shall stand severed and replaced by those created by the adoption order in the adoptive family:

Effect of adoption.

Provided that any property which has vested in the adopted child immediately before the date on which the adoption order takes effect shall continue to vest in the adopted child subject to the obligations, if any, attached to the ownership of such property including the obligations, if any, to maintain the relatives in the biological family.

64. Notwithstanding anything contained in any other law for the time being in force, information regarding all adoption orders issued by the concerned courts, shall be forwarded to Authority on monthly basis in the manner as provided in the adoption regulations framed by the Authority, so as to enable Authority to maintain the data on adoption.

Reporting of adoption.

65. (1) The State Government shall recognise one or more institutions or organisations in each district as a Specialised Adoption Agency, in such manner as may be provided in the adoption regulations framed by the Authority, for the rehabilitation of orphan, abandoned or surrendered children, through adoption and non-institutional care.

Specialised Adoption Agencies.

(2) The State Agency shall furnish the name, address and contact details of the Specialised Adoption Agencies along with copies of certificate or letter of recognition or renewal to Authority, as soon as the recognition or renewal is granted to such agencies.

(3) The State Government shall get every Specialised Adoption Agency inspected at least once in a year and take necessary remedial measures, if required.



(4) In case any Specialised Adoption Agency is in default in taking necessary steps on its part as provided in this Act or in the adoption regulations framed by the Authority, for getting an orphan or abandoned or surrendered child legally free for adoption from the Committee or in completing the home study report of the prospective adoptive parents or in obtaining adoption order from the court within the stipulated time, such Specialised Adoption Agency shall be punishable with a fine which may extend up to fifty thousand rupees and in case of repeated default, the recognition of the Specialised Adoption Agency shall be withdrawn by the State Government.

Adoption of children residing in institutions not registered as adoption agencies.

66. (1) All the institutions registered under this Act, which may not have been recognised as Specialised Adoption Agencies, shall also ensure that all orphan or abandoned or surrendered children under their care are reported, produced and declared legally free for adoption, by the Committee as per the provisions of section 38.

(2) All institutions referred to in sub-section (1) shall develop formal linkages with nearby Specialised Adoption Agency and shall furnish details of the children declared legally free for adoption to that Specialised Adoption Agency along with all relevant records in the manner as may be prescribed, for the placement of such children in adoption.

(3) If any such institution contravenes the provisions of sub-section (1) or sub-section (2), it shall be liable to fine of fifty thousand rupees for each instance to be imposed by the registering authority and it may also attract de-recognition in the event of persistent flouting of such provisions.

State Adoption Resource Agency.

67. (1) The State Government shall set up a State Adoption Resource Agency for dealing with adoptions and related matters in the State under the guidance of Authority.

(2) The State Agency, wherever already exists, shall be deemed to be set up under this Act.

Central Adoption Resource Authority.

68. The Central Adoption Resource Agency existing before the commencement of this Act, shall be deemed to have been constituted as the Central Adoption Resource Authority under this Act to perform the following functions, namely:—

(a) to promote in-country adoptions and to facilitate inter-State adoptions in co-ordination with State Agency;

(b) to regulate inter-country adoptions;

(c) to frame regulations on adoption and related matters from time to time as may be necessary;

(d) to carry out the functions of the Central Authority under the Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption;

(e) any other function as may be prescribed.

Steering Committee of Authority.

69. (1) The Authority shall have a Steering Committee with following members :

(a) Secretary, Ministry of Women and Child Development, Government of India, who shall be the Chairperson—*ex officio*;

(b) Joint Secretary, Ministry of Women and Child Development, Government of India, dealing with Authority—*ex officio*;

(c) Joint Secretary, Ministry of Women and Child Development, Government of India, dealing with Finance—*ex officio*;

(d) one State Adoption Resource Agency and two Specialised Adoption Agencies;

(e) one adoptive parent and one adoptee;

(f) one advocate or a professor having at least ten years of experience in family law;

(g) Member-Secretary, who shall also be Chief Executive Officer of the organisation.

(2) Criteria for the selection or nomination of the Members mentioned at (d) to (f), their tenure as well as the terms and conditions of their appointment shall be such as may be prescribed.

(3) The Steering Committee shall have the following functions, namely:—

(a) to oversee the functioning of Authority and review its working from time to time so that it operates in most effective manner;

(b) to approve the annual budget, annual accounts and audit reports as well as the action plan and annual report of Authority;

(c) to adopt the recruitment rules, service rules, financial rules of Authority as well as the other regulations for the exercise of the administrative and programmatic powers within the organisation, with the prior approval of the Central Government;

(d) any other function that may be vested with it by the Central Government from time to time.

(4) The Steering Committee shall meet once in a month in the manner as may be prescribed.

(5) The Authority shall function from its headquarter and through its regional offices as may be set up as per its functional necessity.

70. (1) For the efficient performance of its functions, Authority shall have the following powers, namely:—

Powers of Authority.

(a) to issue instructions to any Specialised Adoption Agency or a Children Home or any child care institution housing any orphan, abandoned or surrendered child, any State Agency or any authorised foreign adoption agency and such directions shall be complied by such agencies;

(b) recommending to the concerned Government or Authority to take appropriate action against any official or functionary or institution under its administrative control, in case of persistent non-compliance of the instructions issued by it;

(c) forwarding any case of persistent non-compliance of its instructions by any official or functionary or institution to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the same as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973;

(d) any other power that may be vested with it by the Central Government.

(2) In case of any difference of opinion in an adoption case, including the eligibility of prospective adoptive parents or of a child to be adopted, the decision of Authority shall prevail.

71. (1) The Authority shall submit an annual report to the Central Government in such manner as may be prescribed.

Annual Report of Authority.

(2) The Central Government shall cause the annual report of Authority to be laid before each House of Parliament.

72. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Authority by way of grants such sums of money as the Central Government may think fit for being utilised for performing the functions of Authority under this Act.

Grants by Central Government.



Accounts and  
audit of  
Authority.

(2) The Authority may spend such sums of money as it thinks fit for performing the functions, as prescribed under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

73. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of Authority shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall, have the same rights and privileges and the Authority in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority.

(5) The Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

## CHAPTER IX

### OTHER OFFENCES AGAINST CHILDREN

Prohibition  
on disclosure  
of identity of  
children.

74. (1) No report in any newspaper, magazine, news-sheet or audio-visual media or other forms of communication regarding any inquiry or investigation or judicial procedure, shall disclose the name, address or school or any other particular, which may lead to the identification of a child in conflict with law or a child in need of care and protection or a child victim or witness of a crime, involved in such matter, under any other law for the time being in force, nor shall the picture of any such child be published:

Provided that for reasons to be recorded in writing, the Board or Committee, as the case may be, holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the best interest of the child.

(2) The Police shall not disclose any record of the child for the purpose of character certificate or otherwise in cases where the case has been closed or disposed of.

(3) Any person contravening the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to two lakh rupees or both.

Punishment  
for cruelty to  
child.

75. Whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be punishable with imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both:

Provided that in case it is found that such abandonment of the child by the biological parents is due to circumstances beyond their control, it shall be presumed that such abandonment is not wilful and the penal provisions of this section shall not apply in such cases:

Provided further that if such offence is committed by any person employed by or managing an organisation, which is entrusted with the care and protection of the child, he shall be punished with rigorous imprisonment which may extend up to five years, and fine which may extend up to five lakhs rupees:

Provided also that on account of the aforesaid cruelty, if the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular



tasks or has risk to life or limb, such person shall be punishable with rigorous imprisonment, not less than three years but which may be extended up to ten years and shall also be liable to fine of five lakhs rupees.

76. (1) Whoever employs or uses any child for the purpose of begging or causes any child to beg shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees:

Employment of child for begging.

Provided that, if for the purpose of begging, the person amputates or maims the child, he shall be punishable with rigorous imprisonment for a term not less than seven years which may extend up to ten years, and shall also be liable to fine of five lakh rupees.

(2) Whoever, having the actual charge of, or control over the child, abets the commission of an offence under sub-section (1), shall be punishable with the same punishment as provided for in sub-section (1) and such person shall be considered to be unfit under sub-clause (v) of clause (14) of section 2:

Provided that the said child, shall not be considered a child in conflict with law under any circumstances, and shall be removed from the charge or control of such guardian or custodian and produced before the Committee for appropriate rehabilitation.

77. Whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable with rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees.

Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a child.

78. Whoever uses a child, for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance, shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine up to one lakh rupees.

Using a child for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance.

79. Notwithstanding anything contained in any law for the time being in force, whoever ostensibly engages a child and keeps him in bondage for the purpose of employment or withholds his earnings or uses such earning for his own purposes shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees.

Exploitation of a child employee.

*Explanation.*—For the purposes of this section, the term “employment” shall also include selling goods and services, and entertainment in public places for economic gain.

80. If any person or organisation offers or gives or receives, any orphan, abandoned or surrendered child, for the purpose of adoption without following the provisions or procedures as provided in this Act, such person or organisation shall be punishable with imprisonment of either description for a term which may extend up to three years, or with fine of one lakh rupees, or with both:

Punitive measures for adoption without following prescribed procedures.

Provided in case where the offence is committed by a recognised adoption agency, in addition to the above punishment awarded to the persons in-charge of, and responsible for the conduct of the day-to-day affairs of the adoption agency, the registration of such agency under section 41 and its recognition under section 65 shall also be withdrawn for a minimum period of one year.



Sale and  
procurement  
of children for  
any purpose.

81. Any person who sells or buys a child for any purpose shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees:

Provided that where such offence is committed by a person having actual charge of the child, including employees of a hospital or nursing home or maternity home, the term of imprisonment shall not be less than three years and may extend up to seven years.

Corporal  
punishment.

82. (1) Any person in-charge of or employed in a child care institution, who subjects a child to corporal punishment with the aim of disciplining the child, shall be liable, on the first conviction, to a fine of ten thousand rupees and for every subsequent offence, shall be liable for imprisonment which may extend to three months or fine or with both.

(2) If a person employed in an institution referred to in sub-section (1), is convicted of an offence under that sub-section, such person shall also be liable for dismissal from service, and shall also be debarred from working directly with children thereafter.

(3) In case, where any corporal punishment is reported in an institution referred to in sub-section (1) and the management of such institution does not cooperate with any inquiry or comply with the orders of the Committee or the Board or court or State Government, the person in-charge of the management of the institution shall be liable for punishment with imprisonment for a term not less than three years and shall also be liable to fine which may extend to one lakh rupees.

Use of child  
by militant  
groups or  
other adults.

83. (1) Any non-State, self-styled militant group or outfit declared as such by the Central Government, if recruits or uses any child for any purpose, shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine of five lakh rupees.

(2) Any adult or an adult group uses children for illegal activities either individually or as a gang shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine of five lakh rupees.

Kidnapping  
and abduction  
of child.

84. For the purposes of this Act, the provisions of sections 359 to 369 of the Indian Penal Code, shall *mutatis mutandis* apply to a child or a minor who is under the age of eighteen years and all the provisions shall be construed accordingly.

45 of 1860.

Offences  
committed on  
disabled  
children.

85. Whoever commits any of the offences referred to in this Chapter on any child who is disabled as so certified by a medical practitioner, then, such person shall be liable to twice the penalty provided for such offence.

*Explanation.*—For the purposes of this Act, the term “disability” shall have the same meaning as assigned to it under clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

1 of 1996.

Classification  
of offences  
and designated  
court.

86. (1) Where an offence under this Act is punishable with imprisonment for a term more than seven years, then, such offence shall be cognizable, non-bailable and triable by a Children's Court.

(2) Where an offence under this Act is punishable with imprisonment for a term of three years and above, but not more than seven years, then, such offence shall be cognizable, non-bailable and triable by a Magistrate of First Class.

(3) Where an offence, under this Act, is punishable with imprisonment for less than three years or with fine only, then, such offence shall be non-cognizable, bailable and triable by any Magistrate.

Abetment.

87. Whoever abets any offence under this Act, if the act abetted is committed in consequence of the abetment, shall be punished with the punishment provided for that offence.



*Explanation.*— An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy or with the aid, which constitutes the abetment.

88. Where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the offender found guilty of such offence shall be liable for punishment under such law which provides for punishment which is greater in degree.

Alternative punishment.

89. Any child who commits any offence under this Chapter shall be considered as a child in conflict with law under this Act.

Offence committed by child under this Chapter.

## CHAPTER X

### MISCELLANEOUS

90. The Committee or the Board, as the case may be, before which a child is brought under any of the provisions of this Act, may, whenever it so thinks fit, require any parent or guardian having the actual charge of the child to be present at any proceeding in respect of that child.

Attendance of parent or guardian of child.

91. (1) If, at any stage during the course of an inquiry, the Committee or the Board is satisfied that the attendance of the child is not essential for the purpose of inquiry, the Committee or the Board, as the case may be, shall dispense with the attendance of a child and limit the same for the purpose of recording the statement and subsequently, the inquiry shall continue even in the absence of the child concerned, unless ordered otherwise by the Committee or the Board.

Dispensing with attendance of child.

(2) Where the attendance of a child is required before the Board or the Committee, such child shall be entitled to travel reimbursement for self and one escort accompanying the child as per actual expenditure incurred, by the Board, or the Committee or the District Child Protection Unit, as the case may be.

92. When a child, who has been brought before the Committee or the Board, is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the Committee or the Board, as the case may be, may send the child to any place recognised as a fit facility as prescribed for such period as it may think necessary for the required treatment.

Placement of a child suffering from disease requiring prolonged medical treatment in an approved place.

93. (1) Where it appears to the Committee or the Board that any child kept in a special home or an observation home or a Children's Home or in an institution in pursuance of the provisions of this Act, is a mentally ill person or addicted to alcohol or other drugs which lead to behavioural changes in a person, the Committee or the Board, may order removal of such child to a psychiatric hospital or psychiatric nursing home in accordance with the provisions of the Mental Health Act, 1987 or the rules made thereunder.

Transfer of a child who is mentally ill or addicted to alcohol or other drugs.

14 of 1987.

(2) In case the child had been removed to a psychiatric hospital or psychiatric nursing home under sub-section (1), the Committee or the Board may, on the basis of the advice given in the certificate of discharge of the psychiatric hospital or psychiatric nursing home, order to remove such child to an Integrated Rehabilitation Centre for Addicts or similar centres maintained by the State Government for mentally ill persons (including the persons addicted to any narcotic drug or psychotropic substance) and such removal shall be only for the period required for the inpatient treatment of such child.

*Explanation.*—For the purposes of this sub-section,—

(a) "Integrated Rehabilitation Centre for Addicts" shall have the meaning assigned to it under the scheme called "Central Sector Scheme of Assistance for



Prevention of Alcoholism and Substance (Drugs) Abuse and for Social Defence Services" framed by the Central Government in the Ministry of Social Justice and Empowerment or any other corresponding scheme for the time being in force;

(b) "mentally ill person" shall have the same meaning assigned to it in clause (l) of section 2 of the Mental Health Act, 1987;

14 of 1987.

(c) "psychiatric hospital" or "psychiatric nursing home" shall have the same meaning assigned to it in clause (g) of section 2 of the Mental Health Act, 1987.

14 of 1987.

Presumption  
and  
determination  
of age.

94. (1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining—

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.

Transfer of a  
child to place  
of residence.

95. (1) If during the inquiry it is found that a child hails from a place outside the jurisdiction, the Board or Committee, as the case may be, shall, if satisfied after due inquiry that it is in the best interest of the child and after due consultation with the Committee or the Board of the child's home district, order the transfer of the child, as soon as possible, to the said Committee or the Board, along with relevant documents and following such procedure as may be prescribed:

Provided that such transfer can be made in case of a child in conflict with law, only after the inquiry has been completed and final order passed by the Board:

Provided further that in case of inter-State transfer, the child shall be, if convenient, handed over to the Committee or the Board, as the case may be, of the home district of the child, or to the Committee or the Board in the capital city of the home State.

(2) Once the decision to transfer is finalised, the Committee or Board, as the case may be, shall give an escort order to the Special Juvenile Police Unit to escort the child, within fifteen days of receiving such order:

**Provided that a girl child shall be accompanied by a woman police officer:**

Provided further that where a Special Juvenile Police Unit is not available, the Committee or Board, as the case may be, shall direct the institution where the child is



temporarily staying or District Child Protection Unit, to provide an escort to accompany the child during travel.

(3) The State Government shall make rules to provide for travelling allowance to the escorting staff for the child, which shall be paid in advance.

(4) The Committee or the Board, as the case may be, receiving the transferred child will process for restoration or rehabilitation or social re-integration, as provided in this Act.

96. (1) The State Government may at any time, on the recommendation of a Committee or Board, as the case may be, notwithstanding anything contained in this Act, and keeping the best interest of the child in mind, order the child's transfer from any Children's Home or special home or fit facility or fit person, to a home or facility, within the State with prior intimation to the concerned Committee or the Board:

Transfer of child between Children's Homes, or special homes or fit facility or fit person in different parts of India.

Provided that for transfer of a child between similar home or facility or person within the same district, the Committee or Board, as the case may be, of the said district shall be competent to issue such an order.

(2) If transfer is being ordered by a State Government to an institution outside the State, this shall be done only in consultation with the concerned State Government.

(3) The total period of stay of the child in a Children's Home or a special home shall not be increased by such transfer.

(4) Orders passed under sub-sections (1) and (2) shall be deemed to be operative for the Committee or the Board, as the case may be, of the area to which the child is sent.

97. (1) When a child is kept in a Children's Home or special home, on a report of a probation officer or social worker or of Government or a voluntary or non-governmental organisation, as the case may be, the Committee or the Board may consider, the release of such child, either absolutely or on such conditions as it may think fit to impose, permitting the child to live with parents or guardian or under the supervision of any authorised person named in the order, willing to receive and take charge, educate and train the child, for some useful trade or calling or to look after the child for rehabilitation:

Release of a child from an institution.

Provided that if a child who has been released conditionally under this section, or the person under whose supervision the child has been placed, fails to fulfil such conditions, the Board or Committee may, if necessary, cause the child to be taken charge of and to be placed back in the concerned home.

(2) If the child has been released on a temporary basis, the time during which the child is not present in the concerned home in pursuance of the permission granted under sub-section (1) shall be deemed to be part of the time for which the child is liable to be kept in the children or special home:

Provided that in case of a child in conflict with law fails to fulfil the conditions set by the Board as mentioned in sub-section (1), the time for which he is still liable to be kept in the institution shall be extended by the Board for a period equivalent to the time which lapses due to such failure.

98. (1) The Committee or the Board, as the case may be, may permit leave of absence to any child, to allow him, on special occasions like examination, marriage of relatives, death of kith or kin or accident or serious illness of parent or any emergency of like nature, under supervision, for a period generally not exceeding seven days in one instance, excluding the time taken in journey.

Leave of absence to a child placed in an institution.

(2) The time during which a child is absent from an institution where he is placed, in pursuance of such permission granted under this section, shall be deemed to be part of the time for which he is liable to be kept in the Children's Home or special home.

(3) If a child refuses, or has failed to return to the Children's Home or special home, as the case may be, on the leave period being exhausted or permission being revoked or



forfeited, the Board or Committee may, if necessary, cause him to be taken charge of and to be taken back to the concerned home:

Provided that when a child in conflict with law has failed to return to the special home on the leave period being exhausted or on permission being revoked or forfeited, the time for which he is still liable to be kept in the institution shall be extended by the Board for a period equivalent to the time which lapses due to such failure.

Reports to be treated as confidential.

99. (1) All reports related to the child and considered by the Committee or the Board shall be treated as confidential:

Provided that the Committee or the Board, as the case may be, may, if it so thinks fit, communicate the substance thereof to another Committee or Board or to the child or to the child's parent or guardian, and may give such Committee or the Board or the child or parent or guardian, an opportunity of producing evidence as may be relevant to the matter stated in the report.

(2) Notwithstanding anything contained in this Act, the victim shall not be denied access to their case record, orders and relevant papers.

Protection of action taken in good faith.

100. No suit, prosecution or other legal proceeding shall lie against the Central Government, or the State Government or any person acting under the directions of the Central Government or State Government, as the case may be, in respect of anything which is done in good faith or intended to be done in pursuance of this Act or of any rules or regulations made thereunder.

Appeals.

101. (1) Subject to the provisions of this Act, any person aggrieved by an order made by the Committee or the Board under this Act may, within thirty days from the date of such order, prefer an appeal to the Children's Court, except for decisions by the Committee related to Foster Care and Sponsorship After Care for which the appeal shall lie with the District Magistrate:

Provided that the Court of Sessions, or the District Magistrate, as the case may be, may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time and such appeal shall be decided within a period of thirty days.

(2) An appeal shall lie against an order of the Board passed after making the preliminary assessment into a heinous offence under section 15 of the Act, before the Court of Sessions and the Court may, while deciding the appeal, take the assistance of experienced psychologists and medical specialists other than those whose assistance has been obtained by the Board in passing the order under the said section.

(3) No appeal shall lie from,—

(a) any order of acquittal made by the Board in respect of a child alleged to have committed an offence other than the heinous offence by a child who has completed or is above the age of sixteen years; or

(b) any order made by a Committee in respect of finding that a person is not a child in need of care and protection.

(4) No second appeal shall lie from any order of the Court of Session, passed in appeal under this section.

(5) Any person aggrieved by an order of the Children's Court may file an appeal before the High Court in accordance with the procedure specified in the Code of Criminal Procedure, 1973.

Revision.

102. The High Court may, at any time, either on its own motion or on an application received in this behalf, call for the record of any proceeding in which any Committee or Board or Children's Court, or Court has passed an order, for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit:

Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.



- 2 of 1974. 103. (1) Save as otherwise expressly provided by this Act, a Committee or a Board while holding any inquiry under any of the provisions of this Act, shall follow such procedure as may be prescribed and subject thereto, shall follow, as far as may be, the procedure laid down in the Code of Criminal Procedure, 1973 for trial of summons cases. Procedure in inquiries, appeals and revision proceedings.
- 2 of 1974. (2) Save as otherwise expressly provided by or under this Act, the procedure to be followed in hearing appeals or revision proceedings under this Act shall be, as far as practicable, in accordance with the provisions of the Code of Criminal Procedure, 1973.
104. (1) Without prejudice to the provisions for appeal and revision contained in this Act, the Committee or the Board may, on an application received in this behalf, amend any orders passed by itself, as to the institution to which a child is to be sent or as to the person under whose care or supervision a child is to be placed under this Act: Power of the Committee or the Board to amend its own orders.
- Provided that during the course of hearing for amending any such orders, there shall be at least two members of the Board of which one shall be the Principal Magistrate and at least three members of the Committee and all persons concerned, or their authorised representatives, whose views shall be heard by the Committee or the Board, as the case may be, before the said orders are amended.
- (2) Clerical mistakes in orders passed by the Committee or the Board or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Committee or the Board, as the case may be, either on its own motion or on an application received in this behalf.
105. (1) The State Government may create a fund in such name as it thinks fit for the welfare and rehabilitation of the children dealt with under this Act. Juvenile justice fund.
- (2) There shall be credited to the fund such voluntary donations, contributions or subscriptions as may be made by any individual or organisation.
- (3) The fund created under sub-section (1) shall be administered by the Department of the State Government implementing this Act in such manner and for such purposes as may be prescribed.
106. Every State Government shall constitute a Child Protection Society for the State and Child Protection Unit for every District, consisting of such officers and other employees as may be appointed by that Government, to take up matters relating to children with a view to ensure the implementation of this Act, including the establishment and maintenance of institutions under this Act, notification of competent authorities in relation to the children and their rehabilitation and co-ordination with various official and non-official agencies concerned and to discharge such other functions as may be prescribed. State Child Protection Society and District Child Protection Unit.
107. (1) In every police station, at least one officer, not below the rank of assistant sub-inspector, with aptitude, appropriate training and orientation may be designated as the child welfare police officer to exclusively deal with children either as victims or perpetrators, in co-ordination with the police, voluntary and non-governmental organisations. Child Welfare Police Officer and Special Juvenile Police Unit.
- (2) To co-ordinate all functions of police related to children, the State Government shall constitute Special Juvenile Police Units in each district and city, headed by a police officer not below the rank of a Deputy Superintendent of Police or above and consisting of all police officers designated under sub-section (1) and two social workers having experience of working in the field of child welfare, of whom one shall be a woman.
- (3) All police officers of the Special Juvenile Police Units shall be provided special training, especially at induction as child welfare police officer, to enable them to perform their functions more effectively.
- (4) Special Juvenile Police Unit also includes Railway police dealing with children.
108. The Central Government and every State Government, shall take necessary measures to ensure that— Public awareness on provisions of Act.
- (a) the provisions of this Act are given wide publicity through media including television, radio and print media at regular intervals so as to make the general public, children and their parents or guardians aware of such provisions;



(b) the officers of the Central Government, State Government and other concerned persons are imparted periodic training on the matters relating to the implementation of the provisions of this Act.

Monitoring of  
implementation  
of Act.

109. (1) The National Commission for Protection of Child Rights constituted under section 3, or as the case may be, the State Commission for Protection of Child Rights constituted under section 17 (herein referred to as the National Commission or the State Commission, as the case may be), of the Commissions for Protection of Child rights Act, 2005, shall, in addition to the functions assigned to them under the said Act, also monitor the implementation of the provisions of this Act, in such manner, as may be prescribed.

4 of 2006.

(2) The National Commission or, as the case may be, the State Commission, shall, while inquiring into any matter relating to any offence under this Act, have the same powers as are vested in the National Commission or the State Commission under the Commissions for Protection of Child Rights Act, 2005.

4 of 2006.

(3) The National Commission or, as the case may be, the State Commission, shall also include its activities under this section, in the annual report referred to in section 16 of the Commissions for Protection of Child Rights Act, 2005.

4 of 2006.

Power to  
make rules.

110. (1) The State Government shall, by notification in the Official Gazette, make rules to carry out the purposes of this Act:

Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the State Government is required to make rules and where any such model rules have been framed in respect of any such matter, they shall apply to the State *mutatis mutandis* until the rules in respect of that matter are made by the State Government and while making any such rules, they conform to such model rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(i) manner of inquiry in case of a missing or run away child or whose parents cannot be found under sub-clause (vii) of clause (14) of section 2;

(ii) responsibilities of the Child Welfare Officer attached to a Children's Home under clause (18) of section 2;

(iii) qualifications of the members of the Board under sub-section (2) of section 4;

(iv) induction training and sensitisation of all members of the Board under sub-section (5) of section 4;

(v) term of office of the members of the Board and the manner in which such member may resign under sub-section (6) of section 4;

(vi) time of the meetings of the Board and the rules of procedure in regard to the transaction of business at its meeting under sub-section (1) of section 7;

(vii) qualifications, experience and payment of fees of an interpreter or translator under clause (d) of sub-section (3) of section 8;

(viii) any other function of the Board under clause (n) of sub-section (3) of section 8;

(ix) persons through whom any child alleged to be in conflict with law may be produced before the Board and the manner in which such a child may be sent to an observation home or place of safety under sub-section (2) of section 10;

(x) manner in which a person apprehended and not released on bail by the officer-in-charge of the police station may be kept in an observation home until such person is brought before a Board under sub-section (2) of section 12;



(xi) format for information on pendency in the Board to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate and District Magistrate on quarterly basis under sub-section (3) of section 16;

(xii) monitoring procedures and list of monitoring authorities under sub-section (2) of section 20;

(xiii) manner in which the relevant records of the child may be destroyed by the Board, police or the court under sub-section (2) of section 24;

(xiv) qualifications of the members of the Child Welfare Committee under sub-section (5) of section 27;

(xv) rules and procedures with regard to transaction of business at the meetings of the Child Welfare Committee under sub-section (1) of section 28;

(xvi) process of restoration of abandoned or lost children to their families under clause (x) of section 30;

(xvii) manner of submitting the report to the Committee and the manner of sending and entrusting the child to Children's Home or fit facility or fit person under sub-section (2) of section 31;

(xviii) manner of holding an inquiry by the Child Welfare Committee under sub-section (1) of section 36;

(xix) manner in which a child may be sent to a Specialised Adoption Agency if the child is below six years of age, Children's Home or to a fit facility or person or foster family, till suitable means of rehabilitation are found for the child including manner in which situation of the child placed in a Children's Home or with a fit facility or person or foster family, may be reviewed by the Committee under sub-section (3) of section 36;

(xx) manner in which a quarterly report may be submitted by the Committee to the District Magistrate for review of pendency of cases under sub-section (4) of section 36;

(xxi) any other order related to any other function of the Committee under clause (iii) of sub-section (2) of section 37;

(xxii) information to be given every month by the Committee to State Agency and Authority regarding number of children declared legally free for adoption and number of cases pending under sub-section (5) of section 38;

(xxiii) manner in which all institutions under this Act shall be registered under sub-section (1) of section 41;

(xxiv) procedure for cancelling or withholding registration of an institution that fails to provide rehabilitation and re-integration services under sub-section (7) of section 41;

(xxv) manner in which information shall be sent every month by the open shelter to the District Child Protection Unit and Committee under sub-section (3) of section 43;

(xxvi) procedure for placing children in foster care including group foster care under sub-section (1) of section 44;

(xxvii) procedure for inspection of children in foster care under sub-section (4) of section 44;

(xxviii) manner in which foster family shall provide education, health and nutrition to the child under sub-section (6) of section 44;

(xxix) procedure and criteria in which foster care services shall be provided to children under sub-section (7) of section 44;



(xxx) format for inspection of foster families by the Committee to check the well being of children under sub-section (8) of section 44;

(xxxi) purpose of undertaking various programmes of sponsorship of children, such as individual to individual sponsorship, group sponsorship or community sponsorship under sub-section (1) of section 45;

(xxxii) duration of sponsorship under sub-section (3) of section 45;

(xxxiii) manner of providing financial support to any child leaving institutional care on completing eighteen years of age under section 46;

(xxxiv) management and monitoring of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a child alleged to be in conflict with law and the circumstances under which, and the manner in which, the registration of an observation home may be granted or withdrawn under sub-section (3) of section 47;

(xxxv) management and monitoring of special homes including the standards and various types of services to be provided to them under sub-section (2) and sub-section (3) of section 48;

(xxxvi) monitoring and management of children's homes including the standards and the nature of services to be provided by them, based on individual care plans for each child under sub-section (3) of section 50;

(xxxvii) manner in which a Board or the Committee shall recognise, a facility being run by a Governmental organisation or a voluntary or non-governmental organisation registered under any law for the time being in force, fit to temporarily take the responsibility of a child for a specific purpose after due inquiry regarding the suitability of the facility and the organisation to take care of the child under sub-section (1) of section 51;

(xxxviii) procedure of verification of credentials, for recognising any person fit to temporarily receive a child for care, protection and treatment of such child for a specified period by the Board or the Committee under sub-section (1) of section 52;

(xxxix) manner in which services shall be provided by an institution under this Act for rehabilitation and re-integration of children and standards for basic requirements such as food, shelter, clothing and medical attention under sub-section (1) of section 53;

(xl) manner in which Management Committee shall be set up by each institution for management of the institution and monitoring of the progress of every child under sub-section (2) of section 53;

(xli) activities that may be taken up by children's committees under sub-section (3) of section 53;

(xlii) appointment of inspection committees for all institutions registered or recognised fit, for the State and district under sub-section (1) of section 54;

(xlili) manner in which Central Government or State Government may independently evaluate the functioning of the Board, Committee, special juvenile police units, registered institutions, or recognised fit facilities and persons, including the period and through persons or institutions under sub-section (1) of section 55;

(xlii) manner in which institutions shall furnish details of children declared legally free for adoption to the Specialised Adoption Agency under sub-section (2) of section 66;

(xlv) any other function of the Authority under clause (e) of section 68;



(xlv) criteria for the selection or nomination of the Members of the Steering Committee of the Authority and their tenure as well as the terms and conditions of their appointment under sub-section (2) of section 69;

(xlvii) manner in which Steering Committee of the Authority shall meet under sub-section (4) of section 69;

(xlviii) manner in which the Authority shall submit an annual report to the Central Government under sub-section (1) of section 71;

(xlix) functions of the Authority under sub-section (2) of section 72;

(l) manner in which the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts under sub-section (1) of section 73;

(li) period that the Committee or Board may think necessary for the treatment of children who are found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment to a fit facility under section 92;

(lii) procedure for transfer of child under sub-section (1) of section 95;

(liii) provision for travelling allowance to the escorting staff for the child under sub-section (3) of section 95;

(liv) procedure to be followed by the Committee or a Board while holding any inquiry, appeal or revision under sub-section (1) of section 103;

(lv) manner in which juvenile justice fund shall be administered under sub-section (3) of section 105;

(lvi) functioning of the Child Protection Society for the State and Child Protection Units for every district under section 106;

(lvii) to enable the National Commission, or as the case may be, the State Commission to monitor implementation of the provisions of this Act under sub-section (1) of section 109;

(lviii) any other matter which is required to be, or may be, prescribed.

(3) Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

56 of 2000.

111. (1) The Juvenile Justice (Care and Protection of Children) Act, 2000 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Acts shall be deemed to have been done or taken under the corresponding provisions of this Act.

112. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.



Provided that no such order shall be made after the expiry of the period of two years from the commencement of this Act.

(2) However, order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Sd/-

**DR. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.

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Government Central Press, Gandhinagar.



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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVIII]

TUESDAY, APRIL 12, 2016/CAITRA 23, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, Dated the 12<sup>th</sup> April, 2016.

No. RPB/36-2016/Act-6-16/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 1<sup>st</sup> January, 2016, Paush 11, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 31<sup>st</sup> December, 2015 is hereby published for general information :-

#### THE PAYMENT OF BONUS (AMENDMENT) ACT, 2015

(AS PASSED BY THE HOUSES OF PARLIAMENT)

[Act No. 6 of 2016]

AN ACT

[31<sup>st</sup> December, 2015]

*further to amend the Payment of Bonus Act, 1965.*

Be it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Bonus (Amendment) Act, 2015.

(2) It shall be deemed to have come into force on the 1st day of April, 2014.

Short title  
and  
commencement.



21 of 1965.

2. In section 2 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), in clause (13), for the words "ten thousand rupees", the words "twenty-one thousand rupees" shall be substituted.

Amendment  
of section 2.

3. In section 12 of the principal Act,—

Amendment  
of section 12.

(i) for the words "three thousand and five hundred rupees" at both the places where they occur, the words "seven thousand rupees or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher" shall respectively be substituted;

(ii) the following *Explanation* shall be inserted at the end, namely:—

*'Explanation.—*For the purposes of this section, the expression "scheduled employment" shall have the same meaning as assigned to it in clause (g) of section 2 of the Minimum Wages Act, 1948.*'*

11 of 1948.

Amendment of  
section 38.

4. In section 38 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules to carry out the provisions of this Act."

Sd/-

DR. G. NARAYANA RAJU,  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. GOTHI,  
Secretary to Government.

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Government Central Press, Gandhinagar.



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## PART - VI

**Acts of Parliament and Ordinances promulgated by the President.**

**Legislative and Parliamentary Affairs Department**

Sachivalaya, Gandhinagar, Dated the 12<sup>th</sup> April, 2016.

No. RPB/36-2016/Act-5-16/E :- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 1<sup>st</sup> January, 2016, Paush 11, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 31<sup>st</sup> December, 2015 is hereby published for general information :-

### THE ATOMIC ENERGY (AMENDMENT) ACT, 2015

(AS PASSED BY THE HOUSES OF PARLIAMENT)

[Act No. 5 of 2016]

AN ACT

[31<sup>st</sup> December, 2015]

#### *further to amend the Atomic Energy Act, 1962.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Atomic Energy (Amendment) Act, 2015.

Short title and  
commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

33 of 1962.

2. In section 2 of the Atomic Energy Act, 1962 (hereinafter referred to as the principal Act), in sub-section (1), for clause (bb), the following clause shall be substituted, namely:—

Amendment of  
section 2.

‘(bb) “Government company” means a company in which—

(i) not less than fifty-one per cent. of the paid-up share capital is held by the Central Government; or



(ii) the whole of the paid-up share capital is held by one or more of the companies specified in sub-clause (i) and which, by its articles of association, empowers the Central Government to constitute and reconstitute its Board of Directors;.

Amendment of  
section 14.

3. In the principal Act, in section 14, after sub-section (I), the following sub-sections shall be inserted, namely:—

“(1A) No licence under sub-clause (c) of clause (ii) of sub-section (I) shall be granted to a person other than a Department of the Central Government or any authority or an institution or a corporation established by the Central Government, or a Government company.

(1B) Any licence granted to a Government company under sub-section (I) shall stand cancelled in case the licensee ceases to be a Government company and, notwithstanding anything contained in any other law for the time being in force, all assets thereof shall vest in the Central Government free from any liability and the Central Government shall take such measures for safe operation of the plant and disposal of nuclear material so vested in it, as may be necessary in accordance with the provisions of section 3.”.

Sd/-

**DR. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.



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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, Dated the 12<sup>th</sup> April, 2016.

No. RPB/36-2016/Act-4-16/E :- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 1<sup>st</sup> January, 2016, Paush 11, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 31<sup>st</sup> December, 2015 is hereby published for general information :-

#### THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND COMMERCIAL APPELLATE DIVISION OF HIGH COURTS

ACT, 2015

(AS PASSED BY THE HOUSES OF PARLIAMENT)

[Act No. 4 of 2016]

AN ACT

[31<sup>st</sup> December, 2015]

*to provide for the constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 23rd day of October, 2015.

Short title,  
extent and  
commence-  
ment.



## Definitions.

## 2. (1) In this Act, unless the context otherwise requires,—

(a) “Commercial Appellate Division” means the Commercial Appellate Division in a High Court constituted under sub-section (1) of section 5;

(b) “Commercial Court” means the Commercial Court constituted under sub-section (1) of section 3;

(c) “commercial dispute” means a dispute arising out of—

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

(ii) export or import of merchandise or services;

(iii) issues relating to admiralty and maritime law;

(iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;

(v) carriage of goods;

(vi) construction and infrastructure contracts, including tenders;

(vii) agreements relating to immovable property used exclusively in trade or commerce;

(viii) franchising agreements;

(ix) distribution and licensing agreements;

(x) management and consultancy agreements;

(xi) joint venture agreements;

(xii) shareholders agreements;

(xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;

(xiv) mercantile agency and mercantile usage;

(xv) partnership agreements;

(xvi) technology development agreements;

(xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;

(xviii) agreements for sale of goods or provision of services;

(xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;

(xx) insurance and re-insurance;

(xxi) contracts of agency relating to any of the above; and

(xxii) such other commercial disputes as may be notified by the Central Government.

*Explanation.*—A commercial dispute shall not cease to be a commercial dispute merely because—

(a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;

(b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;

(d) "Commercial Division" means the Commercial Division in a High Court constituted under sub-section (1) of section 4;

(e) "District Judge" shall have the same meaning as assigned to it in clause (a) of article 236 of the Constitution of India;

(f) "document" means any matter expressed or described upon any substance by means of letters, figures or marks, or electronic means, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter;

(g) "notification" means a notification published in the Official Gazette and the expression "notify" with its cognate meanings and grammatical variations shall be construed accordingly;

(h) "Schedule" means the Schedule appended to the Act; and

(i) "Specified Value", in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in accordance with section 12 which shall not be less than one crore rupees or such higher value, as may be notified by the Central Government.

5 of 1908.  
1 of 1872.

(2) The words and expressions used and not defined in this Act but defined in the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872, shall have the same meanings respectively assigned to them in that Code and the Act.

## CHAPTER II

### CONSTITUTION OF COMMERCIAL COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS

3. (1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

Constitution  
of  
Commercial  
Courts.

Provided that no Commercial Court shall be constituted for the territory over which the High Court has ordinary original civil jurisdiction.

(2) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(3) The State Government shall, with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court, from amongst the cadre of Higher Judicial Service in the State.

4. (1) In all High Courts, having ordinary civil jurisdiction, the Chief Justice of the High Court may, by order, constitute Commercial Division having one or more Benches consisting of a single Judge for the purpose of exercising the jurisdiction and powers conferred on it under this Act.

Constitution  
of  
Commercial  
Division of  
High Court.

(2) The Chief Justice of the High Court shall nominate such Judges of the High Court who have experience in dealing with commercial disputes to be Judges of the Commercial Division.



Constitution  
of  
Commercial  
Appellate  
Division.

5. (1) After issuing notification under sub-section (1) of section 3 or order under sub-section (1) of section 4, the Chief Justice of the concerned High Court shall, by order, constitute Commercial Appellate Division having one or more Division Benches for the purpose of exercising the jurisdiction and powers conferred on it by the Act.

(2) The Chief Justice of the High Court shall nominate such Judges of the High Court who have experience in dealing with commercial disputes to be Judges of the Commercial Appellate Division.

Jurisdiction  
of  
Commercial  
Court.

6. The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

*Explanation.*—For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908.

5 of 1908.

Jurisdiction  
of  
Commercial  
Divisions of  
High Courts.

7. All suits and applications relating to commercial disputes of a Specified Value filed in a High Court having ordinary original civil jurisdiction shall be heard and disposed of by the Commercial Division of that High Court:

Provided that all suits and applications relating to commercial disputes, stipulated by an Act to lie in a court not inferior to a District Court, and filed or pending on the original side of the High Court, shall be heard and disposed of by the Commercial Division of the High Court:

Provided further that all suits and applications transferred to the High Court by virtue of sub-section (4) of section 22 of the Designs Act, 2000 or section 104 of the Patents Act, 1970 shall be heard and disposed of by the Commercial Division of the High Court in all the areas over which the High Court exercises ordinary original civil jurisdiction.

16 of 2000.  
39 of 1970.

Bar against  
revision  
application or  
petition  
against an  
interlocutory  
order.

8. Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.

Transfer of  
suit if  
counterclaim  
in a  
commercial  
dispute is of  
Specified  
Value.

9. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, in the event that a counterclaim filed in a suit before a civil court relating to a commercial dispute is of Specified Value, such suit shall be transferred by the civil court to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit.

5 of 1908.

(2) In the event that such suit is not transferred in the manner contemplated in sub-section (1), the Commercial Appellate Division of the High Court exercising supervisory jurisdiction over the civil court in question may, on the application of any of the parties to the suit, withdraw such suit pending before the civil court and transfer the same for trial or disposal to the Commercial Court or Commercial Division or, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.

Jurisdiction in  
respect of  
arbitration  
matters.

10. Where the subject-matter of an arbitration is a commercial dispute of a Specified Value and—

(1) If such arbitration is an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that have been filed in a High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

26 of 1996.



26 of 1996.

(2) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

26 of 1996.

(3) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.

11. Notwithstanding anything contained in this Act, a Commercial Court or a Commercial Division shall not entertain or decide any suit, application or proceedings relating to any commercial dispute in respect of which the jurisdiction of the civil court is either expressly or impliedly barred under any other law for the time being in force.

Bar of jurisdiction of Commercial Courts and Commercial Divisions.

### CHAPTER III SPECIFIED VALUE

12. (1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

Determination of Specified Value.

(a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value;

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value; and

(e) where the counterclaim is raised in any suit, appeal or application, the value of the subject-matter of the commercial dispute in such counterclaim as on the date of the counterclaim shall be taken into account.

(2) The aggregate value of the claim and counterclaim, if any as set out in the statement of claim and the counterclaim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

5 of 1908.

(3) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908, as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Act.



## CHAPTER IV

## APPEALS

Appeals from  
decrees of  
Commercial  
Courts and  
Commercial  
Divisions.

13. (1) Any person aggrieved by the decision of the Commercial Court or Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of judgment or order, as the case may be:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996.

5 of 1908.  
26 of 1996.

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act.

Expedition  
disposal of  
appeals.

14. The Commercial Appellate Division shall endeavour to dispose of appeals filed before it within a period of six months from the date of filing of such appeal.

## CHAPTER V

## TRANSFER OF PENDING SUITS

Transfer of  
pending cases.

15. (1) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of a Specified Value pending in a High Court where a Commercial Division has been constituted, shall be transferred to the Commercial Division.

26 of 1996.

(2) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of a Specified Value pending in any civil court in any district or area in respect of which a Commercial Court has been constituted, shall be transferred to such Commercial Court:

26 of 1996.

Provided that no suit or application where the final judgment has been reserved by the Court prior to the constitution of the Commercial Division or the Commercial Court shall be transferred either under sub-section (1) or sub-section (2).

(3) Where any suit or application, including an application under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of Specified Value shall stand transferred to the Commercial Division or Commercial Court under sub-section (1) or sub-section (2), the provisions of this Act shall apply to those procedures that were not complete at the time of transfer.

26 of 1996.

(4) The Commercial Division or Commercial Court, as the case may be, may hold case management hearings in respect of such transferred suit or application in order to prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such suit or application in accordance with Order XIV-A of the Code of Civil Procedure, 1908:

5 of 1908.

Provided that the proviso to sub-rule (1) of Rule 1 of Order V of the Code of Civil Procedure, 1908 shall not apply to such transferred suit or application and the court may, in its discretion, prescribe a new time period within which the written statement shall be filed.

5 of 1908.

(5) In the event that such suit or application is not transferred in the manner specified in sub-section (1), sub-section (2) or sub-section (3), the Commercial Appellate Division of the High Court may, on the application of any of the parties to the suit, withdraw such suit or application from the court before which it is pending and transfer the same for trial or disposal to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.



## CHAPTER VI

## AMENDMENTS TO THE PROVISIONS OF THE CODE OF CIVIL PROCEDURE, 1908

5 of 1908.

16. (1) The provisions of the Code of Civil Procedure, 1908 shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.

Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes.

5 of 1908.

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908, as amended by this Act, in the trial of a suit in respect of a commercial dispute of a Specified Value.

5 of 1908.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908, as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail.

## CHAPTER VII

## MISCELLANEOUS

17. The statistical data regarding the number of suits, applications, appeals or writ petitions filed before the Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, the pendency of such cases, the status of each case, and the number of cases disposed of, shall be maintained and updated every month by each Commercial Court, Commercial Division, Commercial Appellate Division and shall be published on the website of the relevant High Court.

Collection and disclosure of data by Commercial Courts, Commercial Divisions and Commercial Appellate Divisions.

5 of 1908.

18. The High Court may, by notification, issue practice directions to supplement the provisions of Chapter II of this Act or the Code of Civil Procedure, 1908 insofar as such provisions apply to the hearing of commercial disputes of a Specified Value.

Power of High Court to issue directions.

19. The State Government shall provide necessary infrastructure to facilitate the working of a Commercial Court or a Commercial Division of a High Court.

Infrastructure facilities.

20. The State Government may, in consultation with the High Court, establish necessary facilities providing for training of Judges who may be appointed to the Commercial Court, Commercial Division or the Commercial Appellate Division in a High Court.

Training and continuous education.

21. Save as otherwise provided, the provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law for the time being in force other than this Act.

Act to have overriding effect.

22. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Ord. 8 of 2015.

23. (1) The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.



SCHEDULE  
(See section 16)

Amendment  
of section 26.

1. In section 26 of the Code of Civil Procedure, 1908 (hereafter referred to as the Code), 5 of 1908.  
in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that such an affidavit shall be in the form and manner as prescribed under Order VI of Rule 15A”.

Substitution  
of new  
section for  
section 35.

2. For section 35 of the Code, the following section shall be substituted, namely:—

Costs.

‘35. (1) In relation to any commercial dispute, the Court, notwithstanding anything contained in any other law for the time being in force or Rule, has the discretion to determine:

- (a) whether costs are payable by one party to another;
- (b) the quantum of those costs; and
- (c) when they are to be paid.

*Explanation.*—For the purpose of clause (a), the expression “costs” shall mean reasonable costs relating to—

- (i) the fees and expenses of the witnesses incurred;
- (ii) legal fees and expenses incurred;
- (iii) any other expenses incurred in connection with the proceedings.

(2) If the Court decides to make an order for payment of costs, the general rule is that the unsuccessful party shall be ordered to pay the costs of the successful party:

Provided that the Court may make an order deviating from the general rule for reasons to be recorded in writing.

*Illustration*

The Plaintiff, in his suit, seeks a money decree for breach of contract, and damages. The Court holds that the Plaintiff is entitled to the money decree. However, it returns a finding that the claim for damages is frivolous and vexatious.

In such circumstances the Court may impose costs on the Plaintiff, despite the Plaintiff being the successful party, for having raised frivolous claims for damages.

(3) In making an order for the payment of costs, the Court shall have regard to the following circumstances, including—

- (a) the conduct of the parties;
- (b) whether a party has succeeded on part of its case, even if that party has not been wholly successful;
- (c) whether the party had made a frivolous counterclaim leading to delay in the disposal of the case;
- (d) whether any reasonable offer to settle is made by a party and unreasonably refused by the other party; and
- (e) whether the party had made a frivolous claim and instituted a vexatious proceeding wasting the time of the Court.

(4) The orders which the Court may make under this provision include an order that a party must pay—

- (a) a proportion of another party's costs;
- (b) a stated amount in respect of another party's costs;
- (c) costs from or until a certain date;
- (d) costs incurred before proceedings have begun;
- (e) costs relating to particular steps taken in the proceedings;
- (f) costs relating to a distinct part of the proceedings; and
- (g) interest on costs from or until a certain date.

3. In section 35A of the Code, sub-section (2) shall be omitted.

Amendment  
of section  
35A.

4. In the First Schedule to the Code,—

Amendment  
of First  
Schedule.

(A) in the Order V, in Rule 1, in sub-rule (1), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”;

(B) in Order VI,—

(i) after Rule 3, the following Rule shall be inserted, namely:—

“3A. Forms of pleading in Commercial Courts—In a commercial dispute, where forms of pleadings have been prescribed under the High Court Rules or Practice Directions made for the purposes of such commercial disputes, pleadings shall be in such forms.”;

(ii) after Rule 15, the following Rule shall be inserted, namely:—

“15A. Verification of pleadings in a commercial dispute.—

(1) Notwithstanding anything contained in Rule 15, every pleading in a commercial dispute shall be verified by an affidavit in the manner and form prescribed in the Appendix to this Schedule.

(2) An affidavit under sub-rule (1) above shall be signed by the party or by one of the parties to the proceedings, or by any other person on behalf of such party or parties who is proved to the satisfaction of the Court to be acquainted with the facts of the case and who is duly authorised by such party or parties.

(3) Where a pleading is amended, the amendments must be verified in the form and manner referred to in sub-rule (1) unless the Court orders otherwise.

(4) Where a pleading is not verified in the manner provided under sub-rule (1), the party shall not be permitted to rely on such pleading as evidence or any of the matters set out therein.

(5) The Court may strike out a pleading which is not verified by a Statement of Truth, namely, the affidavit set out in the Appendix to this Schedule.”;



(C) in Order VII, after Rule 2, the following Rule shall be inserted, namely:—

“2A. Where interest is sought in the suit,—

(1) Where the plaintiff seeks interest, the plaint shall contain a statement to that effect along with the details set out under sub-rules (2) and (3).

(2) Where the plaintiff seeks interest, the plaint shall state whether the plaintiff is seeking interest in relation to a commercial transaction within the meaning of section 34 of the Code of Civil Procedure, 1908 and, furthermore, if the plaintiff is doing so under the terms of a contract or under an Act, in which case the Act is to be specified in the plaint; or on some other basis and shall state the basis of that.

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(3) Pleadings shall also state—

(a) the rate at which interest is claimed;

(b) the date from which it is claimed;

(c) the date to which it is calculated;

(d) the total amount of interest claimed to the date of calculation; and

(e) the daily rate at which interest accrues after that date.”;

(D) in Order VIII,—

(i) in Rule 1, for the proviso, the following proviso shall be substituted, namely:—

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”;

(ii) after Rule 3, the following Rule shall be inserted, namely:—

“3A. Denial by the defendant in suits before the Commercial Division of the High Court or the Commercial Court—

(1) Denial shall be in the manner provided in sub-rules (2), (3), (4) and (5) of this Rule.

(2) The defendant in his written statement shall state which of the allegations in the particulars of plaint he denies, which allegations he is unable to admit or deny, but which he requires the plaintiff to prove, and which allegations he admits.

(3) Where the defendant denies an allegation of fact in a plaint, he must state his reasons for doing so and if he intends to put forward a different version of events from that given by the plaintiff, he must state his own version.

(4) If the defendant disputes the jurisdiction of the Court he must state the reasons for doing so, and if he is able, give his own statement as to which Court ought to have jurisdiction.

(5) If the defendant disputes the plaintiff's valuation of the suit, he must state his reasons for doing so, and if he is able, give his own statement of the value of the suit.”;

(iii) in Rule 5, in sub-rule (1), after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this Order, shall be taken to be admitted except as against a person under disability.”;

(iv) in Rule 10, after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that no Court shall make an order to extend the time provided under Rule 1 of this Order for filing of the written statement.”;

(E) for Order XI of the Code, the following Order shall be substituted, namely:—

#### “ORDER XI

#### DISCLOSURE, DISCOVERY AND INSPECTION OF DOCUMENTS IN SUITS BEFORE THE COMMERCIAL DIVISION OF A HIGH COURT OR A COMMERCIAL COURT

1. (1) Plaintiff shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint, including:—

Disclosure  
and discovery  
of  
documents.

(a) documents referred to and relied on by the plaintiff in the plaint;

(b) documents relating to any matter in question in the proceedings, in the power, possession, control or custody of the plaintiff, as on the date of filing the plaint, irrespective of whether the same is in support of or adverse to the plaintiff's case;

(c) nothing in this Rule shall apply to documents produced by plaintiffs and relevant only—

(i) for the cross-examination of the defendant's witnesses, or

(ii) in answer to any case set up by the defendant subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.

(2) The list of documents filed with the plaint shall specify whether the documents in the power, possession, control or custody of the plaintiff are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document, mode of execution, issuance or receipt and line of custody of each document.

(3) The plaint shall contain a declaration on oath from the plaintiff that all documents in the power, possession, control or custody of the plaintiff, pertaining to the facts and circumstances of the proceedings initiated by him have been disclosed and copies thereof annexed with the plaint, and that the plaintiff does not have any other documents in its power, possession, control or custody.

*Explanation.*—A declaration on oath under this sub-rule shall be contained in the Statement of Truth as set out in the Appendix.

(4) In case of urgent filings, the plaintiff may seek leave to rely on additional documents, as part of the above declaration on oath and subject to grant of such leave by Court, the plaintiff shall file such additional documents in Court, within thirty days of filing the suit, along with a declaration on oath that the plaintiff has



produced all documents in its power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff and that the plaintiff does not have any other documents, in its power, possession, control or custody.

(5) The plaintiff shall not be allowed to rely on documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of Court and such leave shall be granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint.

(6) The plaint shall set out details of documents, which the plaintiff believes to be in the power, possession, control or custody of the defendant and which the plaintiff wishes to rely upon, and seek leave for production thereof by the said defendant.

(7) The defendant shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the written statement or with its counterclaim if any, including—

(a) the documents referred to and relied on by the defendant in the written statement;

(b) the documents relating to any matter in question in the proceeding in the power, possession, control or custody of the defendant, irrespective of whether the same is in support of or adverse to the defendant's defence;

(c) nothing in this Rule shall apply to documents produced by the defendants and relevant only—

(i) for the cross-examination of the plaintiff's witnesses,

(ii) in answer to any case set up by the plaintiff subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.

(8) The list of documents filed with the written statement or counterclaim shall specify whether the documents, in the power, possession, control or custody of the defendant, are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document being produced by the defendant, mode of execution, issuance or receipt and line of custody of each document.

(9) The written statement or counterclaim shall contain a declaration on oath made by the deponent that all documents in the power, possession, control or custody of the defendant, save and except for those set out in sub-rule (7) (c) (iii) pertaining to the facts and circumstances of the proceedings initiated by the plaintiff or in the counterclaim, have been disclosed and copies thereof annexed with the written statement or counterclaim and that the defendant does not have in its power, possession, control or custody, any other documents.

(10) Save and except for sub-rule (7) (c) (iii), defendant shall not be allowed to rely on documents, which were in the defendant's power, possession, control or custody and not disclosed along with the written statement or counterclaim, save and except by leave of Court and such leave shall be granted only upon the defendant establishing reasonable cause for non-disclosure along with the written statement or counterclaim.

(11) The written statement or counterclaim shall set out details of documents in the power, possession, control or custody of the plaintiff, which the defendant wishes to rely upon and which have not been disclosed with the plaint, and call upon the plaintiff to produce the same.



(12) Duty to disclose documents, which have come to the notice of a party, shall continue till disposal of the suit.

2. (1) In any suit the plaintiff or defendant by leave of the court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Discovery by  
interrogatories.

Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose:

Provided further that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

(2) On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the court, and that court shall decide within seven days from the day of filing of the said application, in deciding upon such application, the court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the court shall consider necessary either for disposing fairly of the suit or for saving costs.

(3) In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the court, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

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(4) Interrogatories shall be in the form provided in Form No. 2 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require.

(5) Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.

(6) Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited *bona fide* for the purpose of the suit, or that the matters inquired into are not sufficiently material at that stage, or on the ground of privilege or any other ground may be taken in the affidavit in answer.

(7) Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix; oppressive, unnecessary or scandalous and any application for this purpose may be made within seven days after service of the interrogatories.

(8) Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the court may allow.

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(9) An affidavit in answer to interrogatories shall be in the form provided in Form No. 3 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require.

(10) No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the court.



(11) Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the court for an order requiring him to answer, or to answer further, as the case may be, and an order may be made requiring him to answer, or to answer further, either affidavit or by *viva voce* examination, as the court may direct.

Inspection.

3. (1) All parties shall complete inspection of all documents disclosed within thirty days of the date of filing of the written statement or written statement to the counterclaim, whichever is later. The Court may extend this time limit upon application at its discretion, but not beyond thirty days in any event.

(2) Any party to the proceedings may seek directions from the Court, at any stage of the proceedings, for inspection or production of documents by the other party, of which inspection has been refused by such party or documents have not been produced despite issuance of a notice to produce.

(3) Order in such application shall be disposed of within thirty days of filing such application, including filing replies and rejoinders (if permitted by Court) and hearing.

(4) If the above application is allowed, inspection and copies thereof shall be furnished to the party seeking it, within five days of such order.

(5) No party shall be permitted to rely on a document, which it had failed to disclose or of which inspection has not been given, save and except with leave of Court.

(6) The Court may impose exemplary costs against a defaulting party, who wilfully or negligently failed to disclose all documents pertaining to a suit or essential for a decision therein and which are in their power, possession, control or custody or where a Court holds that inspection or copies of any documents had been wrongfully or unreasonably withheld or refused.

Admission  
and denial of  
documents.

4. (1) Each party shall submit a statement of admissions or denials of all documents disclosed and of which inspection has been completed, within fifteen days of the completion of inspection or any later date as fixed by the Court.

(2) The statement of admissions and denials shall set out explicitly, whether such party was admitting or denying:—

- (a) correctness of contents of a document;
- (b) existence of a document;
- (c) execution of a document;
- (d) issuance or receipt of a document;
- (e) custody of a document.

*Explanation.*—A statement of admission or denial of the existence of a document made in accordance with sub-rule (2)(b) shall include the admission or denial of the contents of a document.

(3) Each party shall set out reasons for denying a document under any of the above grounds and bare and unsupported denials shall not be deemed to be denials of a document and proof of such documents may then be dispensed with at the discretion of the Court.

(4) Any party may however submit bare denials for third party documents of which the party denying does not have any personal knowledge of, and to which the party denying is not a party to in any manner whatsoever.

(5) An Affidavit in support of the statement of admissions and denials shall be filed confirming the correctness of the contents of the statement.

(6) In the event that the Court holds that any party has unduly refused to admit a document under any of the above criteria,— costs (including exemplary costs) for deciding on admissibility of a document may be imposed by the Court on such party.

(7) The Court may pass orders with respect to admitted documents including for waiver of further proof thereon or rejection of any documents.

5. (1) Any party to a proceeding may seek or the Court may order, at any time during the pendency of any suit, production by any party or person, of such documents in the possession or power of such party or person, relating to any matter in question in such suit.

Production of documents.

(2) Notice to produce such document shall be issued in the Form provided in Form No. 7 in Appendix C to the Code of Civil Procedure, 1908.

(3) Any party or person to whom such notice to produce is issued shall be given not less than seven days and not more than fifteen days to produce such document or to answer to their inability to produce such document.

(4) The Court may draw an adverse inference against a party refusing to produce such document after issuance of a notice to produce and where sufficient reasons for such non-production are not given and order costs.

6. (1) In case of disclosures and inspection of Electronic Records (as defined in the Information Technology Act, 2000), furnishing of printouts shall be sufficient compliance of the above provisions.

Electronic records.

(2) At the discretion of the parties or where required (when parties wish to rely on audio or video content), copies of electronic records may be furnished in electronic form either in addition to or in lieu of printouts.

(3) Where Electronic Records form part of documents disclosed, the declaration on oath to be filed by a party shall specify—

(a) the parties to such Electronic Record;

(b) the manner in which such electronic record was produced and by whom;

(c) the dates and time of preparation or storage or issuance or receipt of each such electronic record;

(d) the source of such electronic record and date and time when the electronic record was printed;

(e) in case of email ids, details of ownership, custody and access to such email ids;

(f) in case of documents stored on a computer or computer resource (including on external servers or cloud), details of ownership, custody and access to such data on the computer or computer resource;

(g) deponent's knowledge of contents and correctness of contents;

(h) whether the computer or computer resource used for preparing or receiving or storing such document or data was functioning properly or in case of malfunction that such malfunction did not affect the contents of the document stored;

(i) that the printout or copy furnished was taken from the original computer or computer resource.

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(4) The parties relying on printouts or copy in electronic form, of any electronic records, shall not be required to give inspection of electronic records, provided a declaration is made by such party that each such copy, which has been produced, has been made from the original electronic record.

(5) The Court may give directions for admissibility of Electronic Records at any stage of the proceedings.

(6) Any party may seek directions from the Court and the Court may of its motion issue directions for submission of further proof of any electronic record including metadata or logs before admission of such electronic record.

7. For avoidance of doubt, it is hereby clarified that Order XIII Rule 1, Order VII Rule 14 and Order VIII Rule 1A of the Code of Civil Procedure, 1908 shall not apply to suits or applications before the Commercial Divisions of High Court or Commercial Courts.”.

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Certain provisions of the Code of Civil Procedure, 1908 not to apply.

Insertion of new Order XIII-A.

5. After Order XIII of the Code, the following Order shall be inserted, namely:—

#### ‘ORDER XIII-A

#### SUMMARY JUDGMENT

Scope of and classes of suits to which this Order applies.

1. (1) This Order sets out the procedure by which Courts may decide a claim pertaining to any Commercial Dispute without recording oral evidence.

(2) For the purposes of this Order, the word “claim” shall include—

(a) part of a claim;

(b) any particular question on which the claim (whether in whole or in part) depends; or

(c) a counterclaim, as the case may be.

(3) Notwithstanding anything to the contrary, an application for summary judgment under this Order shall not be made in a suit in respect of any Commercial Dispute that is originally filed as a summary suit under Order XXXVII.

Stage for application for summary judgment.

2. An applicant may apply for summary judgment at any time after summons has been served on the defendant:

Provided that, no application for summary judgment may be made by such applicant after the Court has framed the issues in respect of the suit.

Grounds for summary judgment.

3. The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that—

(a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and

(b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence.

Procedure.

4. (1) An application for summary judgment to a Court shall, in addition to any other matters the applicant may deem relevant, include the matters set forth in sub-clauses (a) to (f) mentioned hereunder:—

(a) the application must contain a statement that it is an application for summary judgment made under this Order;

(b) the application must precisely disclose all material facts and identify the point of law, if any;

(c) in the event the applicant seeks to rely upon any documentary evidence, the applicant must,—

(i) include such documentary evidence in its application, and

(ii) identify the relevant content of such documentary evidence on which the applicant relies;

(d) the application must state the reason why there are no real prospects of succeeding on the claim or defending the claim, as the case may be;

(e) the application must state what relief the applicant is seeking and briefly state the grounds for seeking such relief.

(2) Where a hearing for summary judgment is fixed, the respondent must be given at least thirty days' notice of:—

(a) the date fixed for the hearing; and

(b) the claim that is proposed to be decided by the Court at such hearing.

(3) The respondent may, within thirty days of the receipt of notice of application of summary judgment or notice of hearing (whichever is earlier), file a reply addressing the matters set forth in clauses (a) to (f) mentioned hereunder in addition to any other matters that the respondent may deem relevant:—

(a) the reply must precisely—

(i) disclose all material facts;

(ii) identify the point of law, if any; and

(iii) state the reasons why the relief sought by the applicant should not be granted;

(b) in the event the respondent seeks to rely upon any documentary evidence in its reply, the respondent must—

(i) include such documentary evidence in its reply; and

(ii) identify the relevant content of such documentary evidence on which the respondent relies;

(c) the reply must state the reason why there are real prospects of succeeding on the claim or defending the claim, as the case may be;

(d) the reply must concisely state the issues that should be framed for trial;

(e) the reply must identify what further evidence shall be brought on record at trial that could not be brought on record at the stage of summary judgment; and

(f) the reply must state why, in light of the evidence or material on record if any, the Court should not proceed to summary judgment.

5. (1) Notwithstanding anything in this Order, if the respondent in an application for summary judgment wishes to rely on additional documentary evidence during the hearing, the respondent must:—

(a) file such documentary evidence; and

(b) serve copies of such documentary evidence on every other party to the application at least fifteen days prior to the date of the hearing.

Evidence for  
hearing of  
summary  
judgment.



(2) Notwithstanding anything in this Order, if the applicant for summary judgment wishes to rely on documentary evidence in reply to the defendant's documentary evidence, the applicant must:—

(a) file such documentary evidence in reply; and

(b) serve a copy of such documentary evidence on the respondent at least five days prior to the date of the hearing.

(3) Notwithstanding anything to the contrary, sub-rules (1) and (2) shall not require documentary evidence to be:—

(a) filed if such documentary evidence has already been filed; or

(b) served on a party on whom it has already been served.

6. (1) On an application made under this Order, the Court may make such orders that it may deem fit in its discretion including the following:—

(a) judgment on the claim;

(b) conditional order in accordance with Rule 7 mentioned hereunder;

(c) dismissing the application;

(d) dismissing part of the claim and a judgment on part of the claim that is not dismissed;

(e) striking out the pleadings (whether in whole or in part); or

(f) further directions to proceed for case management under Order XV-A.

(2) Where the Court makes any of the orders as set forth in sub-rule (1) (a) to (f), the Court shall record its reasons for making such order.

7. (1) Where it appears to the Court that it is possible that a claim or defence may succeed but it is improbable that it shall do so, the Court may make a conditional order as set forth in Rule 6 (1) (b).

(2) Where the Court makes a conditional order, it may:—

(a) make it subject to all or any of the following conditions:—

(i) require a party to deposit a sum of money in the Court;

(ii) require a party to take a specified step in relation to the claim or defence, as the case may be;

(iii) require a party, as the case may be, to give such security or provide such surety for restitution of costs as the Court deems fit and proper;

(iv) impose such other conditions, including providing security for restitution of losses that any party is likely to suffer during the pendency of the suit, as the Court may deem fit in its discretion; and

(b) specify the consequences of the failure to comply with the conditional order, including passing a judgment against the party that have not complied with the conditional order.

8. The Court may make an order for payment of costs in an application for summary judgment in accordance with the provisions of sections 35 and 35A of the Code.

6. Order XV of the Code shall be omitted.

Orders that may be made by Court.

Conditional order.

Power to impose costs.

Omission of Order XV.

7. After Order XV of the Code, the following Order shall be inserted, namely:—

Insertion of  
Order XV-A.

“ORDER XV-A

CASE MANAGEMENT HEARING

1. The Court shall hold the first Case Management Hearing, not later than four weeks from the date of filing of affidavit of admission or denial of documents by all parties to the suit.

First Case  
Management  
Hearing.

2. In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the Court may pass an order—

Orders to be  
passed in a  
Case Manage-  
ment  
Hearing.

5 of 1908.

(a) framing the issues between the parties in accordance with Order XIV of the Code of Civil Procedure, 1908 after examining pleadings, documents and documents produced before it, and on examination conducted by the Court under Rule 2 of Order X, if required;

(b) listing witnesses to be examined by the parties;

(c) fixing the date by which affidavit of evidence to be filed by parties;

(d) fixing the date on which evidence of the witnesses of the parties to be recorded;

(e) fixing the date by which written arguments are to be filed before the Court by the parties;

(f) fixing the date on which oral arguments are to be heard by the Court; and

(g) setting time limits for parties and their advocates to address oral arguments.

3. In fixing dates or setting time limits for the purposes of Rule 2 of this Order, the Court shall ensure that the arguments are closed not later than six months from the date of the first Case Management Hearing.

Time limit  
for the  
completion  
of a trial.

4. The Court shall, as far as possible, ensure that the recording of evidence shall be carried on, on a day-to-day basis until the cross-examination of all the witnesses is complete.

Recording of  
oral evidence  
on a day-to-  
day basis.

5. The Court may, if necessary, also hold Case Management Hearings anytime during the trial to issue appropriate orders so as to ensure adherence by the parties to the dates fixed under Rule 2 and facilitate speedy disposal of the suit.

Case  
Management  
Hearings  
during a trial.

6. (1) In any Case Management Hearing held under this Order, the Court shall have the power to—

Powers of the  
Court in a  
Case  
Management  
Hearing.

(a) prior to the framing of issues, hear and decide any pending application filed by the parties under Order XIII-A;

(b) direct parties to file compilations of documents or pleadings relevant and necessary for framing issues;

(c) extend or shorten the time for compliance with any practice, direction or Court order if it finds sufficient reason to do so;

(d) adjourn or bring forward a hearing if it finds sufficient reason to do so;

(e) direct a party to attend the Court for the purposes of examination under Rule 2 of Order X;

(f) consolidate proceedings;



(g) strike off the name of any witness or evidence that it deems irrelevant to the issues framed;

(h) direct a separate trial of any issue;

(i) decide the order in which issues are to be tried;

(j) exclude an issue from consideration;

(k) dismiss or give judgment on a claim after a decision on a preliminary issue;

(l) direct that evidence be recorded by a Commission where necessary in accordance with Order XXVI;

(m) reject any affidavit of evidence filed by the parties for containing irrelevant, inadmissible or argumentative material;

(n) strike off any parts of the affidavit of evidence filed by the parties containing irrelevant, inadmissible or argumentative material;

(o) delegate the recording of evidence to such authority appointed by the Court for this purpose;

(p) pass any order relating to the monitoring of recording the evidence by a commission or any other authority;

(q) order any party to file and exchange a costs budget;

(r) issue directions or pass any order for the purpose of managing the case and furthering the overriding objective of ensuring the efficient disposal of the suit.

(2) When the Court passes an order in exercise of its powers under this Order, it may—

(a) make it subject to conditions, including a condition to pay a sum of money into Court; and

(b) specify the consequence of failure to comply with the order or a condition.

(3) While fixing the date for a Case Management Hearing, the Court may direct that the parties also be present for such Case Management Hearing, if it is of the view that there is a possibility of settlement between the parties.

7. (1) The Court shall not adjourn the Case Management Hearing for the sole reason that the advocate appearing on behalf of a party is not present:

Provided that an adjournment of the hearing is sought in advance by moving an application, the Court may adjourn the hearing to another date upon the payment of such costs as the Court deems fit, by the party moving such application.

(2) Notwithstanding anything contained in this Rule, if the Court is satisfied that there is a justified reason for the absence of the advocate, it may adjourn the hearing to another date upon such terms and conditions it deems fit.

8. Where any party fails to comply with the order of the Court passed in a Case Management Hearing, the Court shall have the power to—

(a) condone such non-compliance by payment of costs to the Court;

(b) foreclose the non-compliant party's right to file affidavits, conduct cross-examination of witnesses, file written submissions, address oral arguments or make further arguments in the trial, as the case may be, or

Adjournment  
of Case  
Management  
Hearing.

Consequences of non-  
compliance  
with orders.

(c) dismiss the plaint or allow the suit where such non-compliance is wilful, repeated and the imposition of costs is not adequate to ensure compliance.”.

8. In Order XVIII of the Code, in Rule 2, for sub-rules (3A), (3B), (3C), (3D), (3E) and (3F), the following shall be substituted, namely:—

Amendment  
of Order  
XVIII.

“(3A) A party shall, within four weeks prior to commencing the oral arguments, submit concisely and under distinct headings written arguments in support of his case to the Court and such written arguments shall form part of the record.

(3B) The written arguments shall clearly indicate the provisions of the laws being cited in support of the arguments and the citations of judgments being relied upon by the party and include copies of such judgments being relied upon by the party.

(3C) A copy of such written arguments shall be furnished simultaneously to the opposite party.

(3D) The Court may, if it deems fit, after the conclusion of arguments, permit the parties to file revised written arguments within a period of not more than one week after the date of conclusion of arguments.

(3E) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(3F) It shall be open for the Court to limit the time for oral submissions having regard to the nature and complexity of the matter.”.

9. In Order XVIII of the Code, in Rule 4, after sub-rule (1), the following sub-rules shall be inserted, namely:—

Amendment  
of Order  
XVIII.

“(1A) The affidavits of evidence of all witnesses whose evidence is proposed to be led by a party shall be filed simultaneously by that party at the time directed in the first Case Management Hearing.

(1B) A party shall not lead additional evidence by the affidavit of any witness (including of a witness who has already filed an affidavit) unless sufficient cause is made out in an application for that purpose and an order, giving reasons, permitting such additional affidavit is passed by the Court.

(1C) A party shall however have the right to withdraw any of the affidavits so filed at any time prior to commencement of cross-examination of that witness, without any adverse inference being drawn based on such withdrawal:

Provided that any other party shall be entitled to tender as evidence and rely upon any admission made in such withdrawn affidavit.”.

10. In Order XIX of the Code, after Rule 3, the following Rules shall be inserted, namely:—

Amendment  
to Order  
XIX.

“4. (1) The Court may, by directions, regulate the evidence as to issues on which it requires evidence and the manner in which such evidence may be placed before the Court.

Court may  
control  
evidence.

(2) The Court may, in its discretion and for reasons to be recorded in writing, exclude evidence that would otherwise be produced by the parties.”.

5. A Court may, in its discretion, for reasons to be recorded in writing—

Redacting or  
rejecting  
evidence.

(i) redact or order the redaction of such portions of the affidavit of examination-in-chief as do not, in its view, constitute evidence; or

(ii) return or reject an affidavit of examination-in-chief as not constituting admissible evidence.



Format and  
guidelines of  
affidavit of  
evidence.

6. An affidavit must comply with the form and requirements set forth below:—

(a) such affidavit should be confined to, and should follow the chronological sequence of, the dates and events that are relevant for proving any fact or any other matter dealt with;

(b) where the Court is of the view that an affidavit is a mere reproduction of the pleadings, or contains the legal grounds of any party's case, the Court may, by order, strike out the affidavit or such parts of the affidavit, as it deems fit and proper;

(c) each paragraph of an affidavit should, as far as possible, be confined to a distinct portion of the subject;

(d) an affidavit shall state—

(i) which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief; and

(ii) the source for any matters of information or belief;

(e) an affidavit should—

(i) have the pages numbered consecutively as a separate document (or as one of several documents contained in a file);

(ii) be divided into numbered paragraphs;

(iii) have all numbers, including dates, expressed in figures; and

(iv) if any of the documents referred to in the body of the affidavit are annexed to the affidavit or any other pleadings, give the annexures and page numbers of such documents that are relied upon.”

Amendment  
of Order XX.

11. In Order XX of the Code, for Rule 1, the following Rule shall be substituted, namely:—

“(1) The Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.”

Sd/-

**DR. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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TUESDAY, APRIL 12, 2016/CAITRA 23, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, Dated the 12<sup>th</sup> April, 2016.

No. RPB/36-2016/Act-3-16/E :- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 1<sup>st</sup> January, 2016, Paush 11, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 31<sup>st</sup> December, 2015 is hereby published for general information :-

#### THE ARBITRATION AND CONCILIATION (AMENDMENT) ACT, 2015

(AS PASSED BY THE HOUSES OF PARLIAMENT)

[Act No. 3 of 2016]

AN ACT

[31<sup>st</sup> December, 2015]

*To amend the Arbitration and Conciliation Act, 1996*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Arbitration and Conciliation (Amendment) Act, 2015.
- (2) It shall be deemed to have come into force on the 23rd October, 2015.

Short title  
and  
commence-  
ment.

26 of 1996.

2. In the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the principal Act), in section 2,—

Amendment  
of section 2.

(1) in sub-section (1),—

(4) for clause (e), the following clause shall be substituted, namely:—

‘(e) “Court” means—

(i) in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original



jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes;

(ii) in the case of international commercial arbitration, the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, and in other cases, a High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court;";

(B) in clause (f), in sub-clause (iii), the words "a company or" shall be omitted;

(II) in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that subject to an agreement to the contrary, the provisions of sections 9, 27 and clause (a) of sub-section (1) and sub-section (3) of section 37 shall also apply to international commercial arbitration, even if the place of arbitration is outside India, and an arbitral award made or to be made in such place is enforceable and recognised under the provisions of Part II of this Act."

Amendment  
of section 7.

3. In section 7 of the principal Act, in sub-section (4), in clause (b), after the words "or other means of telecommunication", the words "including communication through electronic means" shall be inserted.

Amendment  
of section 8.

4. In section 8 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) A judicial authority, before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party to the arbitration agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, then, notwithstanding any judgment, decree or order of the Supreme Court or any Court, refer the parties to arbitration unless it finds that *prima facie* no valid arbitration agreement exists.";

(ii) in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that where the original arbitration agreement or a certified copy thereof is not available with the party applying for reference to arbitration under sub-section (1), and the said agreement or certified copy is retained by the other party to that agreement, then, the party so applying shall file such application along with a copy of the arbitration agreement and a petition praying the Court to call upon the other party to produce the original arbitration agreement or its duly certified copy before that Court."

Amendment  
of section 9.

5. Section 9 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

"(2) Where, before the commencement of the arbitral proceedings, a Court passes an order for any interim measure of protection under sub-section (1), the arbitral proceedings shall be commenced within a period of ninety days from the date of such order or within such further time as the Court may determine.

(3) Once the arbitral tribunal has been constituted, the Court shall not entertain an application under sub-section (1), unless the Court finds that circumstances exist which may not render the remedy provided under section 17 efficacious."

## 6. In section 11 of the principal Act,—

(i) in sub-sections (4), (5) and (6), for the words “the Chief Justice or any person or institution designated by him” wherever they occur, the words “the Supreme Court or, as the case may be, the High Court or any person or institution designated by such Court” shall be substituted;

(ii) after sub-section (6), the following sub-sections shall be inserted, namely:—

“(6A) The Supreme Court or, as the case may be, the High Court, while considering any application under sub-section (4) or sub-section (5) or sub-section (6), shall, notwithstanding any judgment, decree or order of any Court, confine to the examination of the existence of an arbitration agreement.

(6B) The designation of any person or institution by the Supreme Court or, as the case may be, the High Court, for the purposes of this section shall not be regarded as a delegation of judicial power by the Supreme Court or the High Court.”;

(iii) in sub-section (7), for the words “the Chief Justice or the person or institution designated by him is final”, the words “the Supreme Court or, as the case may be, the High Court or the person or institution designated by such Court is final and no appeal including Letters Patent Appeal shall lie against such decision” shall be substituted;

(iv) for sub-section (8), the following sub-section shall be substituted, namely:—

“(8) The Supreme Court or, as the case may be, the High Court or the person or institution designated by such Court, before appointing an arbitrator, shall seek a disclosure in writing from the prospective arbitrator in terms of sub-section (1) of section 12, and have due regard to—

(a) any qualifications required for the arbitrator by the agreement of the parties; and

(b) the contents of the disclosure and other considerations as are likely to secure the appointment of an independent and impartial arbitrator.”;

(v) in sub-section (9), for the words “the Chief Justice of India or the person or institution designated by him”, the words “the Supreme Court or the person or institution designated by that Court” shall be substituted;

(vi) for sub-section (10), the following sub-section shall be substituted, namely:—

“(10) The Supreme Court or, as the case may be, the High Court, may make such scheme as the said Court may deem appropriate for dealing with matters entrusted by sub-section (4) or sub-section (5) or sub-section (6), to it.”;

(vii) in sub-section (11), for the words “the Chief Justices of different High Courts or their designates, the Chief Justice or his designate to whom the request has been first made”, the words “different High Courts or their designates, the High Court or its designate to whom the request has been first made” shall be substituted;

(viii) for sub-section (12), the following sub-section shall be substituted, namely:—

“(12) (a) Where the matters referred to in sub-sections (4), (5), (6), (7), (8) and sub-section (10) arise in an international commercial arbitration, the reference to the “Supreme Court or, as the case may be, the High Court” in those sub-sections shall be construed as a reference to the “Supreme Court”; and



(b) where the matters referred to in sub-sections (4), (5), (6), (7), (8) and sub-section (10) arise in any other arbitration, the reference to "the Supreme Court or, as the case may be, the High Court" in those sub-sections shall be construed as a reference to the "High Court" within whose local limits the principal Civil Court referred to in clause (e) of sub-section (1) of section 2 is situate, and where the High Court itself is the Court referred to in that clause, to that High Court.;

(ix) after sub-section (12), the following sub-sections shall be inserted, namely:—

"(13) An application made under this section for appointment of an arbitrator or arbitrators shall be disposed of by the Supreme Court or the High Court or the person or institution designated by such Court, as the case may be, as expeditiously as possible and an endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party.

(14) For the purpose of determination of the fees of the arbitral tribunal and the manner of its payment to the arbitral tribunal, the High Court may frame such rules as may be necessary, after taking into consideration the rates specified in the Fourth Schedule.

*Explanation.*—For the removal of doubts, it is hereby clarified that this sub-section shall not apply to international commercial arbitration and in arbitrations (other than international commercial arbitration) in case where parties have agreed for determination of fees as per the rules of an arbitral institution."

7. After section 11 of the principal Act, the following new section shall be inserted, namely:—

"11A. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, amend the Fourth Schedule and thereupon the Fourth Schedule shall be deemed to have been amended accordingly.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by the both Houses of Parliament."

8. In section 12 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose in writing any circumstances,—

(a) such as the existence either direct or indirect, of any past or present relationship with or interest in any of the parties or in relation to the subject-matter in dispute, whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to his independence or impartiality; and

(b) which are likely to affect his ability to devote sufficient time to the arbitration and in particular his ability to complete the entire arbitration within a period of twelve months.

Insertion of  
new section  
11A.

Power of  
Central  
Government  
to amend  
Fourth  
Schedule.

Amendment  
of section 12.

*Explanation 1.*—The grounds stated in the Fifth Schedule shall guide in determining whether circumstances exist which give rise to justifiable doubts as to the independence or impartiality of an arbitrator.

*Explanation 2.*—The disclosure shall be made by such person in the form specified in the Sixth Schedule.”;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Notwithstanding any prior agreement to the contrary, any person whose relationship, with the parties or counsel or the subject-matter of the dispute, falls under any of the categories specified in the Seventh Schedule shall be ineligible to be appointed as an arbitrator:

Provided that parties may, subsequent to disputes having arisen between them, waive the applicability of this sub-section by an express agreement in writing.

9. In section 14 of the principal Act, in sub-section (1), in the opening portion, for the words “The mandate of an arbitrator shall terminate if”, the words “The mandate of an arbitrator shall terminate and he shall be substituted by another arbitrator, if” shall be substituted.

Amendment  
of section 14.

10. For section 17 of the principal Act, the following section shall be substituted, namely:—

Substitution  
of new  
section for  
section 17.

“17. (1) A party may, during the arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to the arbitral tribunal—

Interim  
measures  
ordered by  
arbitral  
tribunal.

(i) for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or

(ii) for an interim measure of protection in respect of any of the following matters, namely:—

(a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;

(b) securing the amount in dispute in the arbitration;

(c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken, or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;

(d) interim injunction or the appointment of a receiver;

(e) such other interim measure of protection as may appear to the arbitral tribunal to be just and convenient,

and the arbitral tribunal shall have the same power for making orders, as the court has for the purpose of, and in relation to, any proceedings before it.



(2) Subject to any orders passed in an appeal under section 37, any order issued by the arbitral tribunal under this section shall be deemed to be an order of the Court for all purposes and shall be enforceable under the Code of Civil Procedure, 1908, in the same manner as if it were an order of the Court.”

5 of 1908.

Amendment  
of section 23.

11. In section 23 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The respondent, in support of his case, may also submit a counterclaim or plead a set-off, which shall be adjudicated upon by the arbitral tribunal, if such counterclaim or set-off falls within the scope of the arbitration agreement.”

Amendment  
of section 24.

12. In section 24 of the principal Act, after the proviso to sub-section (1), the following proviso shall be inserted, namely:—

“Provided further that the arbitral tribunal shall, as far as possible, hold oral hearings for the presentation of evidence or for oral argument on day-to-day basis, and not grant any adjournments unless sufficient cause is made out, and may impose costs including exemplary costs on the party seeking adjournment without any sufficient cause.”

Amendment  
of section 25.

13. In section 25 of the principal Act, in clause (b), at the end, after the words “allegations by the claimant”, the words “and shall have the discretion to treat the right of the respondent to file such statement of defence as having been forfeited” shall be inserted.

Amendment  
of section 28.

14. In section 28 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) While deciding and making an award, the arbitral tribunal shall, in all cases, take into account the terms of the contract and trade usages applicable to the transaction.”

Insertion of  
new sections  
29A and 29B.

15. After section 29 of the principal Act, the following new sections shall be inserted, namely:—

Time limit for  
arbitral award.

“29A. (1) The award shall be made within a period of twelve months from the date the arbitral tribunal enters upon the reference.

*Explanation.*—For the purpose of this sub-section, an arbitral tribunal shall be deemed to have entered upon the reference on the date on which the arbitrator or all the arbitrators, as the case may be, have received notice, in writing, of their appointment.

(2) If the award is made within a period of six months from the date the arbitral tribunal enters upon the reference, the arbitral tribunal shall be entitled to receive such amount of additional fees as the parties may agree.

(3) The parties may, by consent, extend the period specified in sub-section (1) for making award for a further period not exceeding six months.

(4) If the award is not made within the period specified in sub-section (1) or the extended period specified under sub-section (3), the mandate of the arbitrator(s) shall terminate unless the Court has, either prior to or after the expiry of the period so specified, extended the period:

Provided that while extending the period under this sub-section, if the Court finds that the proceedings have been delayed for the reasons attributable to the arbitral tribunal, then, it may order reduction of fees of arbitrator(s) by not exceeding five per cent. for each month of such delay.

(5) The extension of period referred to in sub-section (4) may be on the application of any of the parties and may be granted only for sufficient cause and on such terms and conditions as may be imposed by the Court.

(6) While extending the period referred to in sub-section (4), it shall be open to the Court to substitute one or all of the arbitrators and if one or all of the arbitrators are substituted, the arbitral proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this section shall be deemed to have received the said evidence and material.

(7) In the event of arbitrator(s) being appointed under this section, the arbitral tribunal thus reconstituted shall be deemed to be in continuation of the previously appointed arbitral tribunal.

(8) It shall be open to the Court to impose actual or exemplary costs upon any of the parties under this section.

(9) An application filed under sub-section (5) shall be disposed of by the Court as expeditiously as possible and endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party.

29B. (1) Notwithstanding anything contained in this Act, the parties to an arbitration agreement, may, at any stage either before or at the time of appointment of the arbitral tribunal, agree in writing to have their dispute resolved by fast track procedure specified in sub-section (3).

Fast track  
procedure.

(2) The parties to the arbitration agreement, while agreeing for resolution of dispute by fast track procedure, may agree that the arbitral tribunal shall consist of a sole arbitrator who shall be chosen by the parties.

(3) The arbitral tribunal shall follow the following procedure while conducting arbitration proceedings under sub-section (1):

(a) The arbitral tribunal shall decide the dispute on the basis of written pleadings, documents and submissions filed by the parties without any oral hearing;

(b) The arbitral tribunal shall have power to call for any further information or clarification from the parties in addition to the pleadings and documents filed by them;

(c) An oral hearing may be held only, if, all the parties make a request or if the arbitral tribunal considers it necessary to have oral hearing for clarifying certain issues;

(d) The arbitral tribunal may dispense with any technical formalities, if an oral hearing is held, and adopt such procedure as deemed appropriate for expeditious disposal of the case.

(4) The award under this section shall be made within a period of six months from the date the arbitral tribunal enters upon the reference.

(5) If the award is not made within the period specified in sub-section (4), the provisions of sub-sections (3) to (9) of section 29A shall apply to the proceedings.

(6) The fees payable to the arbitrator and the manner of payment of the fees shall be such as may be agreed between the arbitrator and the parties.”.

16. In section 31 of the principal Act,—

(i) in sub-section (7), for clause (b), the following clause shall be substituted, namely:—

Amendment  
of section 31.

“(b) A sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate of two per cent. higher than the current rate of interest prevalent on the date of award, from the date of award to the date of payment.

*Explanation.*—The expression “current rate of interest” shall have the same meaning as assigned to it under clause (b) of section 2 of the Interest Act, 1978.”;



(ii) for sub-section (8), the following sub-section shall be substituted, namely:—

“(8) The costs of an arbitration shall be fixed by the arbitral tribunal in accordance with section 31A.”.

Insertion of  
new section  
31A.

Regime for  
costs.

17. After section 31 of the principal Act, the following new section shall be inserted, namely:—

“31A. (1) In relation to any arbitration proceeding or a proceeding under any of the provisions of this Act pertaining to the arbitration, the Court or arbitral tribunal, notwithstanding anything contained in the Code of Civil Procedure, 1908, shall have the discretion to determine—

5 of 1908.

(a) whether costs are payable by one party to another;

(b) the amount of such costs; and

(c) when such costs are to be paid.

*Explanation.*—For the purpose of this sub-section, “costs” means reasonable costs relating to—

(i) the fees and expenses of the arbitrators; Courts and witnesses;

(ii) legal fees and expenses;

(iii) any administration fees of the institution supervising the arbitration; and

(iv) any other expenses incurred in connection with the arbitral or Court proceedings and the arbitral award.

(2) If the Court or arbitral tribunal decides to make an order as to payment of costs,—

(a) the general rule is that the unsuccessful party shall be ordered to pay the costs of the successful party; or

(b) the Court or arbitral tribunal may make a different order for reasons to be recorded in writing.

(3) In determining the costs, the Court or arbitral tribunal shall have regard to all the circumstances, including—

(a) the conduct of all the parties;

(b) whether a party has succeeded partly in the case;

(c) whether the party had made a frivolous counterclaim leading to delay in the disposal of the arbitral proceedings; and

(d) whether any reasonable offer to settle the dispute is made by a party and refused by the other party.

(4) The Court or arbitral tribunal may make any order under this section including the order that a party shall pay—

(a) a proportion of another party's costs;

(b) a stated amount in respect of another party's costs;

(c) costs from or until a certain date only;

(d) costs incurred before proceedings have begun;

(e) costs relating to particular steps taken in the proceedings;

(f) costs relating only to a distinct part of the proceedings; and

(g) interest on costs from or until a certain date.

(5) An agreement which has the effect that a party is to pay the whole or part of the costs of the arbitration in any event shall be only valid if such agreement is made after the dispute in question has arisen.’.

18. In section 34 of the principal Act,—

Amendment of  
section 34.

(I) in sub-section (2), in clause (b), for the *Explanation*, the following *Explanations* shall be substituted, namely:—

“*Explanation 1.*—For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,—

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

*Explanation 2.*—For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.”;

(II) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.”;

(III) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.

(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one year from the date on which the notice referred to in sub-section (5) is served upon the other party.”.

19. For section 36 of the principal Act, the following section shall be substituted, namely:—

Substitution  
of new  
section for  
section 36.

“36. (1) Where the time for making an application to set aside the arbitral award under section 34 has expired, then, subject to the provisions of sub-section (2), such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908, in the same manner as if it were a decree of the court.

Enforce-  
ment.

(2) Where an application to set aside the arbitral award has been filed in the Court under section 34, the filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award in accordance with the provisions of sub-section (3), on a separate application made for that purpose.

(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may deem fit, grant stay of the operation of such award for reasons to be recorded in writing:



Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908.”

5 of 1908.

Amendment  
of section 37.

20. In section 37 of the principal Act, in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) refusing to refer the parties to arbitration under section 8;

(b) granting or refusing to grant any measure under section 9;

(c) setting aside or refusing to set aside an arbitral award under section 34.”.

Amendment  
of section 47.

21. In section 47 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—In this section and in the sections following in this Chapter, “Court” means the High Court having original jurisdiction to decide the questions forming the subject-matter of the arbitral award if the same had been the subject-matter of a suit on its original civil jurisdiction and in other cases, in the High Court having jurisdiction to hear appeals from decrees of courts subordinate to such High Court.’.

Amendment  
of section 48.

22. In section 48 of the principal Act, for the *Explanation* to sub-section (2), the following *Explanations* shall be substituted, namely:—

“*Explanation 1*.—For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,—

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

*Explanation 2*.—For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.”.

Amendment  
of section 56.

23. In section 56 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—In this section and in the sections following in this Chapter, “Court” means the High Court having original jurisdiction to decide the questions forming the subject-matter of the arbitral award if the same had been the subject-matter of a suit on its original civil jurisdiction and in other cases, in the High Court having jurisdiction to hear appeals from decrees of courts subordinate to such High Court.’.

Amendment  
of section 57.

24. In section 57 of the principal Act, in sub-section (1), for the *Explanation*, the following *Explanations* shall be substituted, namely:—

“*Explanation 1*.—For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,—

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

*Explanation 2.*—For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.”

25. After the Third Schedule to the principal Act, the following new Schedules shall be inserted, namely:—

Insertion of new Fourth Schedule, Fifth Schedule, Sixth Schedule and Seventh Schedule.

#### THE FOURTH SCHEDULE

[See section 11 (14)]

Sum in dispute	Model fee
Up to Rs. 5,00,000	Rs. 45,000
Above Rs. 5,00,000 and up to Rs. 20,00,000	Rs. 45,000 plus 3.5 per cent. of the claim amount over and above Rs. 5,00,000
Above Rs. 20,00,000 and up to Rs. 1,00,00,000	Rs. 97,500 plus 3 per cent. of the claim amount over and above Rs. 20,00,000
Above Rs. 1,00,00,000 and up to Rs. 10,00,00,000	Rs. 3,37,500 plus 1 per cent. of the claim amount over and above Rs. 1,00,00,000
Above Rs. 10,00,00,000 and up to Rs. 20,00,00,000	Rs. 12,37,500 plus 0.75 per cent. of the claim amount over and above Rs. 1,00,00,000
Above Rs. 20,00,00,000	Rs. 19,87,500 plus 0.5 per cent. of the claim amount over and above Rs. 20,00,00,000 with a ceiling of Rs. 30,00,000

**Note:**— In the event, the arbitral tribunal is a sole arbitrator, he shall be entitled to an additional amount of twenty-five per cent. on the fee payable as per the table set out above.

#### THE FIFTH SCHEDULE

[See section 12 (1)(b)]

The following grounds give rise to justifiable doubts as to the independence or impartiality of arbitrators:

##### Arbitrator's relationship with the parties or counsel

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party.
2. The arbitrator currently represents or advises one of the parties or an affiliate of one of the parties.
3. The arbitrator currently represents the lawyer or law firm acting as counsel for one of the parties.
4. The arbitrator is a lawyer in the same law firm which is representing one of the parties.
5. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties if the affiliate is directly involved in the matters in dispute in the arbitration.
6. The arbitrator's law firm had a previous but terminated involvement in the case without the arbitrator being involved himself or herself.



7. The arbitrator's law firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.

8. The arbitrator regularly advises the appointing party or an affiliate of the appointing party even though neither the arbitrator nor his or her firm derives a significant financial income therefrom.

9. The arbitrator has a close family relationship with one of the parties and in the case of companies with the persons in the management and controlling the company.

10. A close family member of the arbitrator has a significant financial interest in one of the parties or an affiliate of one of the parties.

11. The arbitrator is a legal representative of an entity that is a party in the arbitration.

12. The arbitrator is a manager, director or part of the management, or has a similar controlling influence in one of the parties.

13. The arbitrator has a significant financial interest in one of the parties or the outcome of the case.

14. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, and the arbitrator or his or her firm derives a significant financial income therefrom.

**Relationship of the arbitrator to the dispute**

15. The arbitrator has given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.

16. The arbitrator has previous involvement in the case.

**Arbitrator's direct or indirect interest in the dispute**

17. The arbitrator holds shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties that is privately held.

18. A close family member of the arbitrator has a significant financial interest in the outcome of the dispute.

19. The arbitrator or a close family member of the arbitrator has a close relationship with a third party who may be liable to recourse on the part of the unsuccessful party in the dispute.

**Previous services for one of the parties or other involvement in the case**

20. The arbitrator has within the past three years served as counsel for one of the parties or an affiliate of one of the parties or has previously advised or been consulted by the party or an affiliate of the party making the appointment in an unrelated matter, but the arbitrator and the party or the affiliate of the party have no ongoing relationship.

21. The arbitrator has within the past three years served as counsel against one of the parties or an affiliate of one of the parties in an unrelated matter.

22. The arbitrator has within the past three years been appointed as arbitrator on two or more occasions by one of the parties or an affiliate of one of the parties.

23. The arbitrator's law firm has within the past three years acted for one of the parties or an affiliate of one of the parties in an unrelated matter without the involvement of the arbitrator.

24. The arbitrator currently serves, or has served within the past three years, as arbitrator in another arbitration on a related issue involving one of the parties or an affiliate of one of the parties.

**Relationship between an arbitrator and another arbitrator or counsel**

25. The arbitrator and another arbitrator are lawyers in the same law firm.
26. The arbitrator was within the past three years a partner of, or otherwise affiliated with, another arbitrator or any of the counsel in the same arbitration.
27. A lawyer in the arbitrator's law firm is an arbitrator in another dispute involving the same party or parties or an affiliate of one of the parties.
28. A close family member of the arbitrator is a partner or employee of the law firm representing one of the parties, but is not assisting with the dispute.
29. The arbitrator has within the past three years received more than three appointments by the same counsel or the same law firm.

**Relationship between arbitrator and party and others involved in the arbitration**

30. The arbitrator's law firm is currently acting adverse to one of the parties or an affiliate of one of the parties.
31. The arbitrator had been associated within the past three years with a party or an affiliate of one of the parties in a professional capacity, such as a former employee or partner.

**Other circumstances**

32. The arbitrator holds shares, either directly or indirectly, which by reason of number or denomination constitute a material holding in one of the parties or an affiliate of one of the parties that is publicly listed.
33. The arbitrator holds a position in an arbitration institution with appointing authority over the dispute.
34. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties, where the affiliate is not directly involved in the matters in dispute in the arbitration.

*Explanation 1.*—The term “close family member” refers to a spouse, sibling, child, parent or life partner.

*Explanation 2.*—The term “affiliate” encompasses all companies in one group of companies including the parent company.

*Explanation 3.*—For the removal of doubts, it is clarified that it may be the practice in certain specific kinds of arbitration, such as maritime or commodities arbitration, to draw arbitrators from a small, specialised pool. If in such fields it is the custom and practice for parties frequently to appoint the same arbitrator in different cases, this is a relevant fact to be taken into account while applying the rules set out above.

**THE SIXTH SCHEDULE**

[See section 12 (1)(b)]

NAME:

CONTACT DETAILS:

PRIOR EXPERIENCE (INCLUDING EXPERIENCE WITH ARBITRATIONS):

NUMBER OF ONGOING ARBITRATIONS:

CIRCUMSTANCES DISCLOSING ANY PAST OR PRESENT RELATIONSHIP WITH OR INTEREST IN ANY OF THE PARTIES OR IN RELATION TO THE SUBJECT-MATTER IN DISPUTE, WHETHER FINANCIAL, BUSINESS, PROFESSIONAL OR OTHER KIND, WHICH IS LIKELY TO GIVE RISE TO JUSTIFIABLE DOUBTS AS TO YOUR INDEPENDENCE OR IMPARTIALITY (LIST OUT):



CIRCUMSTANCES WHICH ARE LIKELY TO AFFECT YOUR ABILITY TO DEVOTE SUFFICIENT TIME TO THE ARBITRATION AND IN PARTICULAR YOUR ABILITY TO FINISH THE ENTIRE ARBITRATION WITHIN TWELVE MONTHS (LIST OUT):

#### THE SEVENTH SCHEDULE

[See section 12 (5)]

##### **Arbitrator's relationship with the parties or counsel**

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party.
2. The arbitrator currently represents or advises one of the parties or an affiliate of one of the parties.
3. The arbitrator currently represents the lawyer or law firm acting as counsel for one of the parties.
4. The arbitrator is a lawyer in the same law firm which is representing one of the parties.
5. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties if the affiliate is directly involved in the matters in dispute in the arbitration.
6. The arbitrator's law firm had a previous but terminated involvement in the case without the arbitrator being involved himself or herself.
7. The arbitrator's law firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.
8. The arbitrator regularly advises the appointing party or an affiliate of the appointing party even though neither the arbitrator nor his or her firm derives a significant financial income therefrom.
9. The arbitrator has a close family relationship with one of the parties and in the case of companies with the persons in the management and controlling the company.
10. A close family member of the arbitrator has a significant financial interest in one of the parties or an affiliate of one of the parties.
11. The arbitrator is a legal representative of an entity that is a party in the arbitration.
12. The arbitrator is a manager, director or part of the management, or has a similar controlling influence in one of the parties.
13. The arbitrator has a significant financial interest in one of the parties or the outcome of the case.
14. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, and the arbitrator or his or her firm derives a significant financial income therefrom.

##### **Relationship of the arbitrator to the dispute**

15. The arbitrator has given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.
16. The arbitrator has previous involvement in the case.

##### **Arbitrator's direct or indirect interest in the dispute**

17. The arbitrator holds shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties that is privately held.
18. A close family member of the arbitrator has a significant financial interest in the outcome of the dispute.

19. The arbitrator or a close family member of the arbitrator has a close relationship with a third party who may be liable to recourse on the part of the unsuccessful party in the dispute.

*Explanation 1.*—The term “close family member” refers to a spouse, sibling, child, parent or life partner.

*Explanation 2.*—The term “affiliate” encompasses all companies in one group of companies including the parent company.

*Explanation 3.*—For the removal of doubts, it is clarified that it may be the practice in certain specific kinds of arbitration, such as maritime or commodities arbitration, to draw arbitrators from a small, specialised pool. If in such fields it is the custom and practice for parties frequently to appoint the same arbitrator in different cases, this is a relevant fact to be taken into account while applying the rules set out above.’

26. Nothing contained in this Act shall apply to the arbitral proceedings commenced, in accordance with the provisions of section 21 of the principal Act, before the commencement of this Act unless the parties otherwise agree but this Act shall apply in relation to arbitral proceedings commenced on or after the date of commencement of this Act.

Act not to apply to pending arbitral proceedings.

Ord. 9 of 2015.

27. (1) The Arbitration and Conciliation (Amendment) Ordinance, 2015, is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-

**DR. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII] WEDNESDAY, APRIL 13, 2016/CAITRA 24, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department  
Sachivalaya, Gandhinagar

Dated the 13<sup>th</sup> April, 2016.

No. RPB/37-2016/Act-9-16/E :- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 11<sup>th</sup> January, 2016, Paush 21, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 8<sup>th</sup> January, 2016 is hereby published for general information :-

#### THE SUGAR CESS (AMENDMENT) ACT, 2015

(AS PASSED BY THE HOUSES OF PARLIAMENT)

[Act No. 9 of 2016]

AN ACT

[8<sup>th</sup> January, 2016]

*further to amend the Sugar Cess Act, 1982.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Sugar Cess (Amendment) Act, 2015.

Short title  
and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Sugar Cess Act, 1982, in section 3, in sub-section (1), for the words "twenty-five rupees", the words "two hundred rupees" shall be substituted.

Amendment  
of section 3  
of Act 3 of  
1982.

Sd/-

**DR. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.

Government Central Press, Gandhinagar.





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# The Gujarat Government Gazette

## EXTRAORDINARY

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Vol. LVI] SATURDAY, APRIL 30, 2016/VAISAKHA 10 1938

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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat  
Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar.

Dated the 30<sup>th</sup> April, 2016.

No. RPB/69-2016/Ord.03-2016/E :-The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 2<sup>nd</sup> April, 2016 is republished for general information :-

#### GOVERNMENT OF INDIA

#### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 2nd April, 2016/Chaitra 13, 1938 (Saka)*

#### THE ENEMY PROPERTY (AMENDMENT AND VALIDATION) SECOND ORDINANCE, 2016

No. 3 OF 2016

Promulgated by the President in the Sixty-seventh Year of the Republic of India.

An Ordinance further to amend the Enemy Property Act, 1968 and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

**WHEREAS** the Enemy Property (Amendment and Validation) Ordinance, 2016 was promulgated by the President on the 7<sup>th</sup> day of January, 2016,

**AND WHEREAS** the Enemy Property (Amendment and Validation) Bill, 2016 to replace the Enemy Property (Amendment and Validation) Ordinance, 2016 has been passed by the House of the People and is pending in the Council of States:

**AND WHEREAS** the Enemy Property (Amendment and Validation) Bill, 2016 has been referred to the Select Committee of the Rajya Sabha for examination and report and is pending before the said Committee;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (1) This Ordinance may be called the Enemy Property (Amendment and Validation) Second Ordinance, 2016.

(2) Save as otherwise provided, it shall be deemed to have come into force on the 7<sup>th</sup> day of January, 2016.

Amendment of section 2.

2. On and from the date of commencement of the Enemy Property Act, 1968 (hereinafter referred to as the principal Act), in section 2,— 34 of 1968.

(i) in clause (b),—

(I) for the words “an enemy subject”, the words “an enemy subject including his legal heir and successor whether or not a citizen of India or the citizen of a country which is not an enemy or the enemy, enemy subject or his legal heir and successor who has changed his nationality” shall be substituted and shall always be deemed to have been substituted;

(II) for the words “an enemy firm”, the words “an enemy firm, including its succeeding firm whether or not partners or members of such succeeding firm are citizens of India or citizens of a country which is not an enemy or such firm which has changed its nationality” shall be substituted and shall always be deemed to have been substituted;

(III) for the words “does not include a citizen of India” the words “does not include a citizen of India other than those citizens of India, being the legal heir and successor of the “enemy” or “enemy subject” or “enemy firm”” shall be substituted and shall always be deemed to have been substituted;



(IV) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:—

*Explanation 1.*—For the purposes of this clause, the expression “does not include a citizen of India” shall exclude and shall always be deemed to have been excluded those citizens of India, who are or have been the legal heir and successor of an “enemy” or an “enemy subject” or an “enemy firm” which or who has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy.

*Explanation 2.*—For the purposes of this clause, it is hereby clarified that nothing contained in this Act shall affect any right of the legal heir and successor referred to in this clause (not being inconsistent to the provisions of this Act) which have been conferred upon him under any other law for the time being in force.’;

(ii) in clause (c), in the proviso,

(I) after the words “dies in the territories to which this Act extends”, the words “or dies in any territory outside India” shall be inserted and shall always be deemed to have been inserted;

(II) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:—

*Explanation 1.*—For the purposes of this clause, it is hereby clarified that “enemy property” shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue and always be deemed to be continued as an enemy property.



*Explanation 2.*—For the purposes of this clause, the expression “enemy property” shall mean and include and shall be deemed to have always meant and included all rights, titles and interest in, or any benefit arising out of, such property.’

Amendment of section 5.

3. On and from the date of commencement of the principal Act, in section 5, after sub-section (2), the following shall be inserted, and shall always be deemed to have been inserted, namely:—

(3) The enemy property vested in the Custodian shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue to remain, save as otherwise provided in this Act, vested in the Custodian.

*Explanation.*—For the purposes of this sub-section, “enemy property vested in the Custodian” shall include and shall always be deemed to have been included all rights, titles, and interest in, or any benefit arising out of, such property vested in him under this Act.’

Insertion of new section 5A.

4. After section 5 of the principal Act, the following section shall be inserted, namely:—

Issue of certificate by Custodian.

“5A. The Custodian may, after making such inquiry as he deems necessary, by order, declare that the property of the enemy or the enemy subject or the enemy firm described in the order, vests in him under this Act and issue a certificate to this effect and such certificate shall be the evidence of the facts stated therein.”

Insertion of new section 5B.

5. On and from the date of commencement of the principal Act, after section 5A (as inserted by section 4 of Enemy Property (Amendment and Validation) Ordinance, 2016, the following shall be inserted and shall always be deemed to have been inserted, namely:—



‘5B. Nothing contained in any law for the time being in force relating to succession or any custom or usage governing succession of property shall apply in relation to the enemy property under this Act and no person (including his legal heir and successor) shall have any right and shall be deemed not to have any right (including all rights, titles and interests or any benefit arising out of such property) in relation to such enemy property.

Law of succession or any custom or usage not to apply to enemy property.

*Explanation.*—For the purposes of this section, the expressions "custom" and "usage" signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law in the matters of succession of property.

6. On and from the date of commencement of the principal Act, for section 6 of the principal Act, the following section shall be substituted and shall always be deemed to have been substituted, namely:—

Amendment of section 6

“6. (1) No enemy or enemy subject or enemy firm shall have any right and shall never be deemed to have any right to transfer any property vested in the Custodian under this Act, whether before or after the commencement of this Act and any transfer of such property shall be void and shall always be deemed to have been void.

Prohibition to transfer any property vested in Custodian by an enemy, enemy subject or enemy firm.

(2) Where any property vested in the Custodian under this Act had been transferred, before the commencement of the Enemy Property (Amendment and Validation) Second Ordinance, 2016, by an enemy or enemy subject or enemy firm and such transfer has been declared, by an order, made by the Central Government, to be void, and the property had been vested or deemed to have been vested in the Custodian [by virtue of the said order made under section 6, as it stood before its substitution by section 6 of the Enemy Property (Amendment and Validation) Second Ordinance, 2016] such property shall, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, continue to vest or be deemed to have been vested in the Custodian and no person (including an enemy or enemy subject or enemy firm) shall have any right or deemed to have any



right (including all rights, titles and interests or any benefit arising out of such property) over the said property vested or deemed to have been vested in the Custodian.”

Amendment  
of section 8.

7. In section 8 of the principal Act,—

(i) On and from the date of commencement of the principal Act, for sub-section (1), the following sub-section shall be substituted and shall always be deemed to have been substituted, namely:—

“(1) With respect to the property vested in the Custodian under this Act, the Custodian may take or authorise the taking of such measures as he considers necessary or expedient for preserving such property till it is disposed of in accordance with the provisions of this Act.”;

(ii) in sub-section (2),—

(a) after clause (i), the following clause shall be inserted, namely:—

“(ia) fix and collect the rent, standard rent, lease rent, licence fee or usage charges, as the case may be, in respect of enemy property;

(b) after clause (iv), the following clause shall be inserted, namely:—

“(iva) secure vacant possession of the enemy property by evicting the unauthorised or illegal occupant or trespasser and remove unauthorised or illegal constructions, if any.”.

Insertion of  
new section  
8A.

8. After section 8 of the principal Act, the following section shall be inserted, namely:—

Sale of  
property by  
Custodian.

“8A. (1) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or any law for the time being in force, the Custodian may, within such time as may be specified by the Central Government in this



behalf, dispose of whether by sale or otherwise, as the case may be, with prior approval of the Central Government, by general or special order, enemy properties vested in him immediately before the date of commencement of the Enemy Property (Amendment and Validation) Second Ordinance, 2016 in accordance with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Second Ordinance, 2016.

(2) The Custodian may, for the purpose of disposal of enemy property under sub-section (1), make requisition of the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(3) The Custodian shall, on disposal of enemy property under sub-section (1) immediately deposit the sale proceeds into the Consolidated Fund of India and intimate details thereof to the Central Government.

(4) The Custodian shall send a report to the Central Government at such intervals, as it may specify, for the enemy properties disposed of under sub-section (1), containing such details, (including the price for which such property has been sold and the particulars of the buyer to whom the properties have been sold or disposed of and the details of the proceeds of sale or disposal deposited into the Consolidated Fund of India) as it may specify.

(5) The Central Government may, by general or special order, issue such directions to the Custodian on the matters relating to disposal of enemy property under sub-section (1) and such directions shall be binding upon the Custodian and the buyer of the enemy properties referred to in that sub-section and other persons connected to such sale or disposal.

(6) The Central Government may, by general or special order, make such guidelines for disposal of enemy property under sub-section (1).



(7) Notwithstanding anything contained in this section, the Central Government may direct that disposal of enemy property under sub-section (1) shall be made by any other authority or Ministry or Department instead of Custodian and in that case all the provisions of this section shall apply to such authority or Ministry or Department in respect of disposal of enemy property under sub-section (1).

(8) Notwithstanding anything contained in sub-sections (1) to (7), the Central Government may deal with or utilise the enemy property in such manner as it may deem fit.”

Insertion of  
new section  
10A.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

Power to issue  
certificate of  
sale.

10A.(1) Where the Custodian proposes to sell any enemy immovable property vested in him, to any person, he may on receipt of the sale proceeds of such property, issue a certificate of sale in favour of such person and such certificate of sale shall, notwithstanding the fact that the original title deeds of the property have not been handed over to the transferee, be valid and conclusive proof of ownership of such property by such person.

(2) Notwithstanding anything contained in any law for the time being in force, the certificate of sale, referred to in sub-section (1), issued by the Custodian shall be a valid instrument for the registration of the property in favour of the transferee and the registration in respect of enemy property for which such certificate of sale had been issued by the Custodian, shall not be refused on the ground of lack of original title deeds in respect of such property or for any such other reason.”

Amendment of  
section 11

10. In section 11 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:

(3) The Custodian, Deputy Custodian or Assistant Custodian shall have, for the purposes of exercising powers or discharging his functions under this Act, the same powers as are vested in a civil



5 of 1908.

court under the Code of Civil Procedure, 1908, while dealing with any case under this Act, in respect of the following matters, namely:—

(a) requiring the discovery and inspection of documents;

(b) enforcing the attendance of any person, including any officer dealing with land, revenue and registration matters, banking officer or officer of a company and examining him on oath;

(c) compelling the production of books, documents and other records; and

(d) issuing commissions for the examination of witnesses or documents.”

11. In section 17 of the principal Act, in sub-section (1), for the words “two per centum”, at both the places where they occur, the words “five per centum” shall be substituted.

Amendment of section 17.

12. For section 18 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 18.

“18. The Central Government may, on receipt of a representation from a person, aggrieved by an order vesting a property as enemy property in the Custodian within a period of thirty days from the date of receipt of such order and after giving a reasonable opportunity of being heard, if it is of the opinion that any enemy property vested in the Custodian under this Act and remaining with him was not an enemy property, it may by general or special order, direct the Custodian that such property vested as enemy property in the Custodian may be transferred to the person from whom such property was acquired and vested in the Custodian.”

Transfer of property vested as enemy property in certain cases.

13. On and from the date of commencement of the principal Act, after section 18 [as substituted by section 12 of Enemy Property (Amendment and Validation) Ordinance, 2016], the following section shall be inserted and shall always be deemed to have been inserted, namely:

Insertion of new section 18A.



Income not  
liable to be  
returned.

“18A. Any income received in respect of the enemy property by the Custodian shall not, notwithstanding that such property had been transferred by way of sale under section 8A or section 18, as the case may be, to any other person, be returned or liable to be returned to such person or any other person.”.

Insertion of  
new section  
18B.

14. After section 18A of the principal Act [as inserted by section 13 of the Enemy Property (Amendment and Validation) Ordinance, 2016], the following section shall be inserted, namely: -

Ord. 1 of 2016.

Bar of  
jurisdiction.

“18B. No civil court or other authority shall entertain any suit or other proceeding in respect of any property, subject-matter of this Act as amended by the Enemy Property (Amendment and Validation) Second Ordinance, 2016, or any action taken by the Central Government or the Custodian in this regard.”.

Amendment  
of section 20.

15. In section 20 of the principal Act, for the words “five hundred rupees” at both the places where they occur, the words “ten thousand rupees” shall be substituted.

Amendment  
of section 22.

16. On and from the date of commencement of the principal Act, in section 22 of the principal Act, after the words “for the time being in force”, the brackets and words “(including any law of succession or any custom or usage in relation to succession of property)” shall be inserted and shall always be deemed to have been inserted.

Insertion of  
new section  
22A.

17. After section 22 of the principal Act, the following section shall be inserted and shall always be deemed to have been inserted with effect from the 2<sup>nd</sup> July, 2010, namely:—

Validation.

“22A. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority.

(a) the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Second Ordinance, 2016, shall have and shall always be deemed to have effect for all purposes as if the provisions of this Act, as amended by the said Ordinance, had been in force at all material times;



(b) any enemy property divested from the Custodian to any person under the provisions of this Act, as it stood immediately before the commencement of the Enemy Property (Amendment and Validation) Second Ordinance, 2016, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the Custodian in the same manner as it was vested in the Custodian before such divesting of enemy property under the provisions of this Act, as if the provisions of this Act, as amended by the aforesaid Ordinance, were in force at all material times;

(c) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority directing divestment of enemy property from the Custodian vested in him under section 5 of this Act, as it stood before the commencement of the Enemy Property (Amendment and Validation) Second Ordinance, 2016, and such enemy property shall continue to vest in the Custodian under section 5 of this Act, as amended by the aforesaid Ordinance, as the said section, as amended by the aforesaid Ordinance was in force at all material times;

(d) any transfer of any enemy property, vested in the Custodian, by virtue of any order of attachment, seizure or sale in execution of decree of a civil court or orders of any tribunal or other authority in respect of enemy property vested in the Custodian which is contrary to the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Second Ordinance, 2016, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the Custodian under this Act."

18. In section 23 of the principal Act, in sub-section (2), clause (d) shall be omitted.

Amendment of section 23.



Power to  
remove  
difficulties.

19. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by the Enemy Property (Amendment and Validation) Second Ordinance, 2016, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Second Ordinance, 2016, or the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended by the Enemy Property (Amendment and Validation) Second Ordinance, 2016, as may appear to be necessary for removing the difficulty: 40 of 1971.

Provided that no such order shall be made under this section after the expiry of two years from the date on which the Bill replacing the Enemy Property (Amendment and Validation) Second Ordinance, 2016, receives the assent of the President.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment of  
sections 2 and  
3 of Act 40 of  
1971.

20. In the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, —

(a) in section 2, in clause (e), after sub-clause (3), the following sub-clause shall be inserted, namely:—

“(f) any premises of the enemy property as defined in clause (c) of section 2 of the Enemy Property Act, 1968.”; 34 of 1968.

(b) in section 3, in clause (a), —

(i) in the second proviso, the word “and” shall be omitted;

(ii) after the second proviso, the following proviso shall be inserted, namely:

“Provided also that the Custodian, Deputy Custodian and Assistant Custodian of the enemy property appointed under section 3 of the Enemy Property Act, 1968 shall be deemed to have been appointed as the Estate Officer in respect of those 34 of 1968.



enemy property, being the public premises referred to in sub-clause (4) of clause (e) of section 2 of this Act for which they had been appointed as the Custodian, Deputy Custodian and Assistant Custodian under section 3 of the Enemy Property Act, 1968.”.

Ord. 4 of  
2010  
34 of 1968.  
40 of 1971.

21. Notwithstanding the cessation of the operation of Savings. the Enemy Property (Amendment and Validation) Ordinance, 2010, anything done or any action taken under the Enemy Property Act, 1968, or the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, as if the provisions of this Act, as amended by the said Ordinance had been in force at all material times.

Ord. 1 of  
2016.

22. (1) The Enemy Property (Amendment and Validation) Ordinance, 2016 is hereby repealed. Repeal and savings.

34 of 1968.

(2) Notwithstanding such repeal, anything done or any action taken under the Enemy Property Act, 1968 as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Ordinance.

Sd/-  
**Pranab Mukherjee,**  
President.

Sd/-  
**Dr. G. Narayana Raju,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-  
**C. J. Gothi,**  
Secretary to Government.



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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII] TUESDAY, JUNE 7, 2016/JYAISTHA 17, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 7<sup>th</sup> June, 2016.

No. RPB/86-2016/Ord.-04-2016-E:— The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 24<sup>th</sup> May, 2016 is republished for general Information :-

#### GOVERNMENT OF INDIA

#### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 24<sup>th</sup> May, 2016/Jyaistha 3, 1938 (Saka)

#### THE INDIAN MEDICAL COUNCIL (AMENDMENT) ORDINANCE, 2016

No. 4 OF 2016

Promulgated by the President in the Sixty-Seventh Year of the Republic of India.

An Ordinance further to amend the Indian Medical Council Act, 1956.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Indian Medical Council (Amendment) Ordinance, 2016.

Short title and commencement.

(2) It shall come into force at once.



Insertion of new  
section 10D

2. In the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), after section 10C, the following section shall be inserted, namely:-

Uniform entrance  
examination for  
undergraduate  
and post-graduate  
level.

"10D. There shall be conducted a uniform entrance examination to all medical educational institutions at the undergraduate level and post-graduate level through such designated authority in Hindi, English and such other languages and in such manner as may be prescribed and the designated authority shall ensure the conduct of uniform entrance examination in the aforesaid manner:

Provided that notwithstanding any judgment or order of any court, the provisions of this section shall not apply in relation to the uniform entrance examination at the undergraduate level for the academic year 2016-2017 conducted in accordance with any regulations made under this Act, in respect of State Government seats (whether in Government medical college or in private medical college) where such State has not opted for such examination."

Amendment of  
section 33.

3. In section 33 of the principal Act, after clause (ma), the following clause shall be inserted, namely:—

"(mb) the designated authority, other languages and the manner of conducting of uniform entrance examination to all medical educational institutions at the undergraduate level and post-graduate level;"

Sd/-

**Pranab Mukherjee,**  
President.

Sd/-

**Dr. G. Narayana Raju,**  
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. Gothi,**  
Secretary to Government.



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#### Government of Gujarat

#### Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 7<sup>th</sup> June, 2016.

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#### GOVERNMENT OF INDIA

#### MINISTRY OF LAW AND JUSTICE

#### (Legislative Department)

New Delhi, the 24<sup>th</sup> May, 2016/Jyaistha 3, 1938 (Saka)

#### THE DENTISTS (AMENDMENT) ORDINANCE, 2016

No. 5 OF 2016

Promulgated by the President in the Sixty-Seventh Year of the Republic of India.

An Ordinance further to amend the Dentists Act, 1948.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Dentists (Amendment) Ordinance, 2016. Short title and commencement.
- (2) It shall come into force at once.



Insertion of new  
section 10D

2. In the Dentists Act, 1956 (hereinafter referred to as the principal Act), after section 10C, the following section shall be inserted, namely:-

Uniform entrance  
examination for  
undergraduate  
and post-graduate  
level.

"10D. There shall be conducted a uniform entrance examination to all dental educational institutions at the undergraduate level and post-graduate level through such designated authority in Hindi, English and such other languages and in such manner as may be prescribed and the designated authority shall ensure the conduct of uniform entrance examination in the aforesaid manner:

Provided that notwithstanding any judgment or order of any court, the provisions of this section shall not apply, in relation to the uniform entrance examination at the undergraduate level for the academic year 2016-2017 conducted in accordance with any regulations made under this Act, in respect of State Government seats (whether in Government medical college or in private dental college) where such State has not opted for such examination".

Amendment of  
section 20.

3. In section 20 of the principal Act, after clause (h), the following clause shall be inserted, namely:—

"(ha) the designated authority, other languages and the manner of conducting of uniform entrance examination to all dental educational institutions at the undergraduate level and post-graduate level;"..

Sd/-

**Pranab Mukherjee,**  
President.

Sd/-

**Dr. G. Narayana Raju,**  
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. Gothi,**  
Secretary to Government.



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## EXTRAORDINARY

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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### Government of Gujarat

#### Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 17<sup>th</sup> June, 2016.

No. RPB/99-2016/Ord.-06-2016-E:— The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 31<sup>st</sup> May, 2016 is republished for general Information :-

#### GOVERNMENT OF INDIA

#### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 31<sup>st</sup> May, 2016/Jyaistha 10, 1938 (Saka)*

#### THE ENEMY PROPERTY (AMENDMENT AND VALIDATION) THIRD ORDINANCE, 2016

No. 6 OF 2016

Promulgated by the President in the Sixty-seventh Year of the Republic of India.

An Ordinance further to amend the Enemy Property Act, 1968 and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

WHEREAS the Enemy Property (Amendment and Validation) Ordinance, 2016 was promulgated by the President on the 7<sup>th</sup> day of January, 2016;

AND WHEREAS the Enemy Property (Amendment and Validation) Bill, 2016 to replace the Enemy Property (Amendment and Validation) Ordinance, 2016 has been passed by the House of the People and is pending in the Council of States;



AND WHEREAS the Enemy Property (Amendment and Validation) Bill, 2016 has been referred to the Select Committee of the Rajya Sabha for its examination and report;

AND WHEREAS the Enemy Property (Amendment and Validation) Second Ordinance was promulgated by the President on the 2nd April, 2016;

AND WHEREAS the Select Committee submitted its Report, along with the Enemy Property (Amendment and Validation) Bill, 2016 incorporating therein the amendments decided by the Committee on the 6<sup>th</sup> May, 2016;

AND WHEREAS the Enemy Property (Amendment and Validation) Bill, 2016, as reported by the Select Committee, could not be taken up for consideration and passing in the Council of States;

AND WHEREAS the Enemy Property (Amendment and Validation) Second Ordinance, 2016 will cease to operate on the 5<sup>th</sup> day of June, 2016;

AND WHEREAS it is considered necessary to give continued effect to the provisions of the Enemy Property (Amendment and Validation) Second Ordinance, 2016 along with the amendments as decided by the Select Committee;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (1) This Ordinance may be called the Enemy Property (Amendment and Validation) Third Ordinance, 2016.

(2) Save as otherwise provided, it shall be deemed to have come into force on the 7<sup>th</sup> day of January, 2016.

Amendment of  
section 2.

2. On and from the date of commencement of the Enemy Property Act, 1968 (hereinafter referred to as the principal Act), in section 2, 34 of 1968.

(i) in clause (b),-

(I) for the words "an enemy subject", the words "an enemy subject including his legal heir and successor whether or not a citizen of India or the citizen of a country which is not an enemy or the enemy, enemy subject or his legal heir and successor who has changed his nationality" shall be substituted and shall always be deemed to have been substituted;

(II) for the words "an enemy firm", the words "an enemy firm, including its succeeding firm whether or not partners or members of such succeeding firm are citizens of India or citizens of a country which is not an enemy or such firm which has changed its nationality" shall be substituted and shall always be deemed to have been substituted;

(III) for the words "does not include a citizen of India", the words "does not include a citizen of India other than those citizens of India, being the legal heir and successor of the "enemy" or "enemy subject" or "enemy firm" ? shall be substituted and shall always be deemed to have been substituted;

(IV) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:-

*Explanation 1.*—For the purposes of this clause, the expression "does not include a citizen of India" shall exclude and shall always be deemed to have been excluded those citizens of India, who are or have been the legal heir and successor of an "enemy" or an "enemy subject" or an "enemy firm" which or who has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy.



*Explanation 2.*—For the purposes of this clause, it is hereby clarified that nothing contained in this Act shall affect any right of the legal heir and successor referred to in this clause (not being inconsistent to the provisions of this Act) which have been conferred upon him under any other law for the time being in force.’;

(ii) in clause (c), in the proviso,

(I) after the words “dies in the territories to which this Act extends”, the words “or dies in any territory outside India” shall be inserted and shall always be deemed to have been inserted;

(II) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:

*Explanation 1.* For the purposes of this clause, it is hereby clarified that “enemy property” shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue and always be deemed to be continued as an enemy property.

*Explanation 2.*—For the purposes of this clause, the expression “enemy property” shall mean and include and shall be deemed to have always meant and included all rights, titles and interest in, or any benefit arising out of, such property.’.

Amendment of  
section 5.

3. On and from the date of commencement of the principal Act, in section 5, after sub-section (2), the following shall be inserted, and shall always be deemed to have been inserted, namely:—

‘(3) The enemy property vested in the Custodian shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue to remain, save as otherwise provided in this Act, vested in the

Custodian.

*Explanation.*—For the purposes of this subsection, “enemy property vested in the Custodian” shall include and shall always be deemed to have been included all rights, titles, and interest in, or any benefit arising out of, such property vested in him under this Act.’

Insertion of new section 5A.

4. After section 5 of the principal Act, the following section shall be inserted, namely:—

Issue of certificate by Custodian.

“5A. The Custodian may, after making such inquiry as he deems necessary, by order, declare that the property of the enemy or the enemy subject or the enemy firm described in the order, vests in him under this Act and issue a certificate to this effect and such certificate shall be the evidence of the facts stated therein.”

Insertion of new section 5B.

5. On and from the date of commencement of the principal Act, after section 5A (as inserted by section 4 of Enemy Property (Amendment and Validation) Ordinance, 2016, the following shall be inserted and shall always be deemed to have been inserted, namely:—

‘5B. Nothing contained in any law for the time being in force relating to succession or any custom or usage governing succession of property shall apply in relation to the enemy property under this Act and no person (including his legal heir and successor) shall have any right and shall be deemed not to have any right (including all rights, titles and interests or any benefit arising out of such property) in relation to such enemy property.

Law of succession or any custom or usage not to apply to enemy property.

*Explanation.*—For the purposes of this section, the expressions “custom” and “usage” signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law in the matters of succession of property.’

6. On and from the date of commencement of the principal Act, for section 6 of the principal Act, the following section shall be substituted and shall always be deemed to have been substituted, namely:—

Amendment of section 6.



“6. (1) No enemy or enemy subject or enemy firm shall have any right and shall never be deemed to have any right to transfer any property vested in the Custodian under this Act, whether before or after the commencement of this Act and any transfer of such property shall be void and shall always be deemed to have been void.

Prohibition to transfer any property vested in Custodian by an enemy, enemy subject or enemy firm.

(2) Where any property vested in the Custodian under this Act had been transferred, before the commencement of the Enemy Property (Amendment and Validation) Third Ordinance, 2016, by an enemy or enemy subject or enemy firm and such transfer has been declared, by an order, made by the Central Government, to be void, and the property had been vested or deemed to have been vested in the Custodian [by virtue of the said order made under section 6, as it stood before its substitution by section 6 of the Enemy Property (Amendment and Validation) Third Ordinance, 2016] such property shall, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, continue to vest or be deemed to have been vested in the Custodian and no person (including an enemy or enemy subject or enemy firm) shall have any right or deemed to have any right (including all rights, titles and interests or any benefit arising out of such property) over the said property vested or deemed to have been vested in the Custodian.”.

Amendment  
of section 8.

7. In section 8 of the principal Act,

(i) On and from the date of commencement of the principal Act, for sub-section (1), the following sub-section shall be substituted and shall always be deemed to have been substituted, namely:

“(1) With respect to the property vested in the Custodian under this Act, the Custodian may take or authorise the taking of such measures as he considers necessary or expedient for preserving such property till it is disposed of in accordance with the provisions of this Act.”;

(ii) in sub-section (2),---

(a) after clause (i), the following clause shall be inserted, namely:---

“(ia) fix and collect the rent, standard rent, lease rent, licence fee or usage charges, as the case may be, in respect of enemy property;

(b) after clause (iv), the following clause shall be inserted, namely:---

“(iva) secure vacant possession of the enemy property by evicting the unauthorised or illegal occupant or trespasser and remove unauthorised or illegal constructions, if any;”.

Insertion of  
new section  
8A.

8. After section 8 of the principal Act, the following section shall be inserted, namely:---

Sale of  
property by  
Custodian.

“8A.(1) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or any law for the time being in force, the Custodian may, within such time as may be specified by the Central Government in this behalf, dispose of whether by sale or otherwise, as the case may be, with prior approval of the Central Government, by general or special order, enemy properties vested in him immediately before the date of commencement of the Enemy Property (Amendment and Validation) Third Ordinance, 2016 in accordance with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Third Ordinance, 2016.

(2) The Custodian may, for the purpose of disposal of enemy property under sub-section (1), make requisition of the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(3) The Custodian shall, on disposal of enemy property under sub-section (1) immediately deposit the sale proceeds into the Consolidated Fund of India and intimate details thereof to the Central Government.



(4) The Custodian shall send a report to the Central Government at such intervals, as it may specify, for the enemy properties disposed of under sub-section (1), containing such details, (including the price for which such property has been sold and the particulars of the buyer to whom the properties have been sold or disposed of and the details of the proceeds of sale or disposal deposited into the Consolidated Fund of India) as it may specify.

(5) The Central Government may, by general or special order, issue such directions to the Custodian on the matters relating to disposal of enemy property under sub-section (1) and such directions shall be binding upon the Custodian and the buyer of the enemy properties referred to in that sub-section and other persons connected to such sale or disposal.

(6) The Central Government may, by general or special order, make such guidelines for disposal of enemy property under sub-section (1).

(7) Notwithstanding anything contained in this section, the Central Government may direct that disposal of enemy property under sub-section (1) shall be made by any other authority or Ministry or Department instead of Custodian and in that case all the provisions of this section shall apply to such authority or Ministry or Department in respect of disposal of enemy property under sub-section (1).

(8) Notwithstanding anything contained in sub-sections (1) to (7), the Central Government may deal with or utilise the enemy property in such manner as it may deem fit."

Insertion of  
new section  
10A.

9. After section 10 of the principal Act, the following section shall be inserted, namely:

Power to issue  
certificate of  
sale.

"10A.(1) Where the Custodian proposes to sell any enemy immovable property vested in him, to any person, he may on receipt of the sale proceeds of such property, issue a certificate of sale in favour of such person and such certificate of sale shall, notwithstanding the fact that the original title deeds of the property have not been handed over to the

transferee, be valid and conclusive proof of ownership of such property by such person.

(2) Notwithstanding anything contained in any law for the time being in force, the certificate of sale, referred to in sub-section (1), issued by the Custodian shall be a valid instrument for the registration of the property in favour of the transferee and the registration in respect of enemy property for which such certificate of sale had been issued by the Custodian, shall not be refused on the ground of lack of original title deeds in respect of such property or for any such other reason."

Amendment of  
section 11.

10. In section 11 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

5 of 1908.

"(3) The Custodian, Deputy Custodian or Assistant Custodian shall have, for the purposes of exercising powers or discharging his functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while dealing with any case under this Act, in respect of the following matters, namely:—

(a) requiring the discovery and inspection of documents;

(b) enforcing the attendance of any person, including any officer dealing with land, revenue and registration matters, banking officer or officer of a company and examining him on oath;

(c) compelling the production of books, documents and other records; and

(d) issuing commissions for the examination of witnesses or documents."

11. In section 17 of the principal Act, in sub-section (1), for the words "two per centum", at both the places where they occur, the words "five per centum" shall be substituted.

Amendment of  
section 17.



12. For section 18 of the principal Act, the following section shall be substituted, namely:

Substitution of new section for section 18.

“18. The Central Government may, on receipt of a representation from a person, aggrieved by an order vesting a property as enemy property in the Custodian within a period of thirty days from the date of receipt of such order or from the date of its publication in the Official Gazette, whichever is earlier and after giving a reasonable opportunity of being heard, if it is of the opinion that any enemy property vested in the Custodian under this Act and remaining with him was not an enemy property, it may by general or special order, direct the Custodian that such property vested as enemy property in the Custodian may be transferred to the person from whom such property was acquired and vested in the Custodian.”

Transfer of property vested as enemy property in certain cases.

13. On and from the date of commencement of the principal Act, after section 18 [as substituted by section 12 of Enemy Property (Amendment and Validation) Ordinance, 2016], the following section shall be inserted and shall always be deemed to have been inserted, namely:

Insertion of new section 18A.

Ord. 1 of 2016.

Income not liable to be returned.

“18A. Any income received in respect of the enemy property by the Custodian shall not, notwithstanding that such property had been transferred by way of sale under section 8A or section 18, as the case may be, to any other person, be returned or liable to be returned to such person or any other person.”

Insertion of new sections 18B and 18C.

14. After section 18A of the principal Act [as inserted by section 13 of the Enemy Property (Amendment and Validation) Ordinance, 2016], the following sections shall be inserted, namely:

Ord. 1 of 2016.

Exclusion of jurisdiction of Civil Courts.

18B. Save as otherwise provided in this Act, no civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any property, subject matter of this Act, as amended by the Enemy Property (Amendment and Validation) Third Ordinance, 2016, or any action taken by the Central Government or the Custodian in this regard.

Appeal to  
High Court.

18C. Any person aggrieved by an order of the Central Government under section 18 of this Act, may, within a period of sixty days from the date of communication or receipt of the order, file an appeal to the High Court on any question of fact or law arising out of such orders, and upon such appeal the High Court may, after hearing the parties, pass such orders thereon as it thinks proper:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

*Explanation.*— In this section, “High Court” means the High Court of a State or Union territory in which the property referred to in section 18 is situated.”

Amendment  
of section 20.

15. In section 20 of the principal Act, for the words “five hundred rupees” at both the places where they occur, the words “ten thousand rupees” shall be substituted.

Amendment  
of section 22.

16. On and from the date of commencement of the principal Act, in section 22 of the principal Act, after the words “for the time being in force”, the brackets and words “(including any law of succession or any custom or usage in relation to succession of property)” shall be inserted and shall always be deemed to have been inserted.

Insertion of  
new section  
22A.

17. After section 22 of the principal Act, the following section shall be inserted and shall always be deemed to have been inserted with effect from the 2<sup>nd</sup> July, 2010, namely:

Validation.

“22A. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,

(a) the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Third Ordinance, 2016, shall have and shall always be deemed to have effect for all purposes as if the provisions of this Act, as amended by the said



Ordinance, had been in force at all material times;

(b) any enemy property divested from the Custodian to any person under the provisions of this Act, as it stood immediately before the commencement of the Enemy Property (Amendment and Validation) Third Ordinance, 2016, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the Custodian in the same manner as it was vested in the Custodian before such divesting of enemy property under the provisions of this Act, as if the provisions of this Act, as amended by the aforesaid Ordinance, were in force at all material times;

(c) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority directing divestment of enemy property from the Custodian vested in him under section 5 of this Act, as it stood before the commencement of the Enemy Property (Amendment and Validation) Third Ordinance, 2016, and such enemy property shall continue to vest in the Custodian under section 5 of this Act, as amended by the aforesaid Ordinance, as the said section, as amended by the aforesaid Ordinance was in force at all material times;

(d) any transfer of any enemy property, vested in the Custodian, by virtue of any order of attachment, seizure or sale in execution of decree of a civil court or orders of any tribunal or other authority in respect of enemy property vested in the Custodian which is contrary to the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Third Ordinance, 2016, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the Custodian under this Act.”

18. In section 23 of the principal Act, in sub-section (2), clause (d) shall be omitted.

Amendment of  
section 23.

Power to  
remove  
difficulties.

19. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by the Enemy Property (Amendment and Validation) Third Ordinance, 2016, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Third Ordinance, 2016, or the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended by the Enemy Property (Amendment and Validation) Third Ordinance, 2016, as may appear to be necessary for removing the difficulty: 40 of 1971.

Provided that no such order shall be made under this section after the expiry of two years from the date on which the Bill replacing the Enemy Property (Amendment and Validation) Third Ordinance, 2016, receives the assent of the President.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment of  
sections 2 and  
3 of Act 40 of  
1971.

20. In the Public Premises (Eviction of Unauthorised Occupants) Act, 1971,—

(a) in section 2, in clause (e), after sub-clause (3), the following sub-clause shall be inserted, namely:

“(4) any premises of the enemy property as defined in clause (c) of section 2 of the Enemy Property Act, 1968.”; 34 of 1968.

(b) in section 3, in clause (a),—

(i) in the second proviso, the word “and” shall be omitted;

(ii) after the second proviso, the following proviso shall be inserted, namely: —

“Provided also that the Custodian, Deputy Custodian and Assistant Custodian of the enemy property appointed under section 3 of the Enemy



Property Act, 1968 shall be deemed to have been 34 of 1968.  
appointed as the Estate Officer in respect of those  
enemy property, being the public premises,  
referred to in sub-clause (4) of clause (e) of section  
2 of this Act for which they had been appointed  
as the Custodian, Deputy Custodian and  
Assistant Custodian under section 3 of the Enemy  
Property Act, 1968.”

Ord. 4 of  
2010.  
34 of 1968.  
40 of 1971.

21. Notwithstanding the cessation of the operation of Savings.  
the Enemy Property (Amendment and Validation)  
Ordinance, 2010, anything done or any action taken  
under the Enemy Property Act, 1968, or the Public  
Premises (Eviction of Unauthorised Occupants) Act,  
1971, as amended by the Enemy Property (Amendment  
and Validation) Ordinance, 2010, shall be deemed to  
have been done or taken under the corresponding  
provisions of those Acts, as amended by the Enemy  
Property (Amendment and Validation) Ordinance, 2010,  
as if the provisions of this Act, as amended by the said  
Ordinance had been in force at all material times.

Ord. 3 of  
2016.

22. (1) The Enemy Property (Amendment and Repeal and  
Validation) Second Ordinance, 2016 is hereby repealed. saving.

34 of 1968.

(2) Notwithstanding such repeal, anything done or  
any action taken under the Enemy Property Act, 1968 as  
amended by the said Ordinance, shall be deemed to have  
been done or taken under the corresponding provisions of  
the said Act, as amended by this Ordinance.

Sd/-  
Pranab Mukherjee,  
President.

Sd/-  
Dr. G. Narayana Raju,  
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-  
C. J. Gothi  
Secretary to Government.



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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII ] FRIDAY, SEPTEMBER 16, 2016/BHADRA 25, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 16<sup>th</sup> September, 2016

No. RPB/234-2016/Ord.07-2016/E:— The following Ordinance promulgated by the President and published in the Gazette of India. Extraordinary, Part II, Section I, dated the 28<sup>th</sup> August, 2016 is republished for general information :-

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
(Legislative Department)

*New Delhi, the 28<sup>th</sup> August, 2016/Bhadra 6, 1938 (Sake)*

THE ENEMY PROPERTY (AMENDMENT AND VALIDATION)  
FOURTH ORDINANCE, 2016

NO.7 OF 2016

Promulgated by the President in the Sixty-seventh Year of the Republic of India.

An Ordinance further to amend the Enemy Property Act, 1968 and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

WHEREAS the Enemy Property (Amendment and Validation) Ordinance, 2016 was promulgated by the President on the 7th day of January, 2016;

AND WHEREAS the Enemy Property (Amendment and Validation) Bill, 2016 to replace the Enemy Property. (Amendment and Validation) Ordinance, 2016 has been passed by the House of the People and is pending in the Council of States;



AND WHEREAS the Enemy Property (Amendment and Validation) Bill, 2016 was referred to the Select Committee of the Rajya Sabha for its examination and report;

AND WHEREAS in order to give continued effect to the Enemy Property (Amendment and Validation) Ordinance, 2016, the Enemy Property (Amendment and Validation) Second Ordinance was promulgated by the President on the 2nd April, 2016;

AND WHEREAS the Select Committee submitted its Report, along with the Enemy Property (Amendment and Validation) Bill, 2016 incorporating therein the amendments recommended by the said Committee, on the 6th May, 2016;

AND WHEREAS the Enemy Property (Amendment and Validation) Bill, 2016, as reported by the Select Committee, could not be taken up for consideration and passing in the Council of States;

AND WHEREAS the Enemy Property (Amendment and Validation) Third Ordinance, 2016 incorporating the recommendations of the Select Committee was promulgated by the President on the 31st May, 2016 which will cease to operate on the 28th day of August, 2016;

AND WHEREAS it is considered necessary to give continued effect to the provisions of the Enemy Property (Amendment and Validation) Third Ordinance, 2016 along with the amendments as recommended by the Select Committee;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (1) This Ordinance may be called the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016.

(2) Save as otherwise provided, it shall be deemed to have come into force on the 7<sup>th</sup> day of January, 2016.

34 of 1968.

2. On and from the date of commencement of the Enemy Property Act, 1968 (hereinafter referred to as the principal Act), in section 2,—

Amendment of section 2.

(i) in clause (b),—

(I) for the words “an enemy subject”, the words “an enemy subject including his legal heir and successor whether or not a citizen of India or the citizen of a country which is not an enemy or the enemy, enemy subject or his legal heir and successor who has changed his nationality” shall be substituted and shall always be deemed to have been substituted;

(II) for the words “an enemy firm”, the words “an enemy firm, including its succeeding firm whether or not partners or members of such succeeding firm are citizens of India or citizens of a country which is not an enemy or such firm which has changed its nationality” shall be substituted and shall always be deemed to have been substituted;

(III) for the words “does not include a citizen of India”, the words “does not include a citizen of India other than those citizens of India, being the legal heir and successor of the “enemy” or “enemy subject” or “enemy firm” ’ shall be substituted and shall always be deemed to have been substituted;

(IV) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:—

‘*Explanation 1.*—For the purposes of this clause, the expression “does not include a citizen of India” shall exclude and shall always be deemed to have been excluded those citizens of India, who are or have been the legal heir and successor of an “enemy” or an “enemy subject” or an “enemy firm” which or who has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy.



*Explanation 2.*— For the purposes of this clause, it is hereby clarified that nothing contained in this Act shall affect any right of the legal heir and successor referred to in this clause (not being inconsistent to the provisions of this Act) which have been conferred upon him under any other law for the time being in force.’;

(ii) in clause (c), in the proviso,—

(I) after the words “dies in the territories to which this Act extends”, the words “or dies in any territory outside India” shall be inserted and shall always be deemed to have been inserted;

(II) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:—

*Explanation 1.*— For the purposes of this clause, it is hereby clarified that “enemy property” shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue and always be deemed to be continued as an enemy property.

*Explanation 2.*— For the purposes of this clause, the expression “enemy property” shall mean and include and shall be deemed to have always meant and included all rights, titles and interests in, or any benefit arising out of, such property.’.

Amendment of  
section 5.

3. On and from the date of commencement of the principal Act, in section 5, after sub-section (2), the following shall be inserted, and shall always be deemed to have been inserted, namely:—

“(3) The enemy property vested in the Custodian shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue to remain, save as otherwise provided in this Act, vested in the Custodian.

*Explanation.*—For the purposes of this sub-section, “enemy property vested in the Custodian” shall include and shall always be deemed to have been included all rights, titles, and interests in, or any benefit arising out of, such property vested in him under this Act.’.

4. After section 5 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 5A.

“5A. The Custodian may, after making such inquiry as he deems necessary, by order, declare that the property of the enemy or the enemy subject or the enemy firm described in the order, vests in him under this Act and issue a certificate to this effect and such certificate shall be the evidence of the facts stated therein.”.

Issue of certificate by Custodian.

5. On and from the date of commencement of the principal Act, after section 5A [as so inserted by section 4 of the Enemy Property (Amendment and Validation) Ordinance, 2016], the following shall be inserted and shall always be deemed to have been inserted, namely:—

Insertion of new section 5B.

‘5B. Nothing contained in any law for the time being in force relating to succession or any custom or usage governing succession of property shall apply in relation to the enemy property under this Act and no person (including his legal heir and successor) shall have any right and shall be deemed not to have any right (including all rights, titles and interests in, or any benefit arising out of, such property) in relation to such enemy property.

Law of succession or any custom or usage not to apply to enemy property.

*Explanation.*— For the purposes of this section, the expressions “custom” and “usage” signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law in the matters of succession of property.’.

6. On and from the date of commencement of the principal Act, for section 6 of the principal Act, the following section shall be substituted and shall always be deemed to have been substituted, namely:—

Amendment of section 6.



Prohibition to transfer any property vested in Custodian by an enemy, enemy subject or enemy firm.

“6. (1) No enemy or enemy subject or enemy firm shall have any right and shall never be deemed to have any right to transfer any property vested in the Custodian under this Act, whether before or after the commencement of this Act and any transfer of such property shall be void and shall always be deemed to have been void.

(2) Where any property vested in the Custodian under this Act had been transferred, before the commencement of the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, by an enemy or enemy subject or enemy firm and such transfer has been declared, by an order, made by the Central Government, to be void, and the property had been vested or deemed to have been vested in the Custodian [by virtue of the said order made under section 6, as it stood before its substitution by section 6 of the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016] such property shall, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, continue to vest or be deemed to have been vested in the Custodian and no person (including an enemy or enemy subject or enemy firm) shall have any right or deemed to have any right (including all rights, titles and interests in, or any benefit arising out of, such property) over the said property vested or deemed to have been vested in the Custodian.”.

Amendment of section 8.

7. In section 8 of the principal Act,—

(i) on and from the date of commencement of the principal Act, for sub-section (1), the following sub-section shall be substituted and shall always be deemed to have been substituted, namely:—

“(1) With respect to the property vested in the Custodian under this Act, the Custodian may take or authorise the taking of such measures as he considers necessary or expedient for preserving such property till it is disposed of in accordance with the provisions of this Act.”;

(ii) in sub-section (2),—

(a) after clause (i), the following clause shall be inserted, namely:—

“(ia) fix and collect the rent, standard rent, lease rent, licence fee or usage charges, as the case may be, in respect of enemy property;”;

(b) after clause (iv), the following clause shall be inserted, namely:—

“(iva) secure vacant possession of the enemy property by evicting the unauthorised or illegal occupant or trespasser and remove unauthorised or illegal constructions, if any.”.

8. After section 8 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 8A.

“8A.(1) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or any law for the time being in force, the Custodian may, within such time as may be specified by the Central Government in this behalf, dispose of whether by sale or otherwise, as the case may be, with prior approval of the Central Government, by general or special order, enemy properties vested in him immediately before the date of commencement of the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016 in accordance with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016.

Sale of property by Custodian.

(2) The Custodian may, for the purpose of disposal of enemy property under sub-section (1), make requisition of the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(3) The Custodian shall, on disposal of enemy property under sub-section (1) immediately deposit the sale proceeds into the Consolidated Fund of India and intimate details thereof to the Central Government.

(4) The Custodian shall send a report to the Central Government at such intervals, as it may specify, for the enemy properties disposed of under sub-section (1), containing such details (including the price for which such property has been sold and the particulars of the buyer to whom the properties have been sold or disposed



of and the details of the proceeds of sale or disposal deposited into the Consolidated Fund of India), as it may specify.

(5) The Central Government may, by general or special order, issue such directions to the Custodian on the matters relating to disposal of enemy property under sub-section (1) and such directions shall be binding upon the Custodian and the buyer of the enemy properties referred to in that sub-section and other persons connected to such sale or disposal.

(6) The Central Government may, by general or special order, make such guidelines for disposal of enemy property under sub-section (1).

(7) Notwithstanding anything contained in this section, the Central Government may direct that disposal of enemy property under sub-section (1) shall be made by any other authority or Ministry or Department instead of Custodian and in that case all the provisions of this section shall apply to such authority or Ministry or Department in respect of disposal of enemy property under sub-section (1).

(8) Notwithstanding anything contained in sub-sections (1) to (7), the Central Government may deal with or utilise the enemy property in such manner as it may deem fit.”.

Insertion of  
new section  
10A.

Power to issue  
certificate of  
sale.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. (1) Where the Custodian proposes to sell any enemy immovable property vested in him, to any person, he may on receipt of the sale proceeds of such property, issue a certificate of sale in favour of such person and such certificate of sale shall, notwithstanding the fact that the original title deeds of the property have not been handed over to the transferee, be valid and conclusive proof of ownership of such property by such person.

(2) Notwithstanding anything contained in any law for the time being in force, the certificate of sale, referred to in sub-section (1), issued by the Custodian shall be a valid instrument for the registration of the property in

favour of the transferee and the registration in respect of enemy property for which such certificate of sale had been issued by the Custodian, shall not be refused on the ground of lack of original title deeds in respect of such property or for any such other reason.”.

10. In section 11 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 11.

“(3) The Custodian, Deputy Custodian or Assistant Custodian shall have, for the purposes of exercising powers or discharging his functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while dealing with any case under this Act, in respect of the following matters, namely:—

5 of 1908.

(a) requiring the discovery and inspection of documents;

(b) enforcing the attendance of any person, including any officer dealing with land, revenue and registration matters, banking officer or officer of a company and examining him on oath;

(c) compelling the production of books, documents and other records; and

(d) issuing commissions for the examination of witnesses or documents.”.

11. In section 17 of the principal Act, in sub-section (1), for the words “two per centum”, at both the places where they occur, the words “five per centum” shall be substituted.

Amendment of section 17.

12. For section 18 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 18.

“18. The Central Government may, on receipt of a representation from a person, aggrieved by an order vesting a property as enemy property in the Custodian within a period of thirty days from the date of receipt of such order or from the date of its publication in the Official Gazette, whichever is earlier and after giving a reasonable opportunity of being heard, if it is of the opinion that any enemy property vested in the Custodian

Transfer of property vested as enemy property in certain cases.



under this Act and remaining with him was not an enemy property, it may by general or special order, direct the Custodian that such property vested as enemy property in the Custodian may be transferred to the person from whom such property was acquired and vested in the Custodian.”.

Insertion of new section 18A.

13. On and from the date of commencement of the principal Act, after section 18 [as so substituted by section 12 of the Enemy Property (Amendment and Validation) Ordinance, 2016], the following section shall be inserted and shall always be deemed to have been inserted, namely:—

Income not liable to be returned.

“18A. Any income received in respect of the enemy property by the Custodian shall not, notwithstanding that such property had been transferred by way of sale under section 8A or section 18, as the case may be, to any other person, be returned or liable to be returned to such person or any other person.”.

Insertion of new sections 18B and 18C.

14. After section 18A of the principal Act [as so inserted by section 13 of the Enemy Property (Amendment and Validation) Ordinance, 2016], the following sections shall be inserted, namely:—

Ord. 1 of 2016.

Exclusion of jurisdiction of civil courts.

‘18B. Save as otherwise provided in this Act, no civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any property, subject matter of this Act, as amended by the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, or any action taken by the Central Government or the Custodian in this regard.

Appeal to High Court.

18C. Any person aggrieved by an order of the Central Government under section 18 of this Act, may, within a period of sixty days from the date of communication or receipt of the order, file an appeal to the High Court on any question of fact or law arising out of such orders, and upon such appeal the High Court may, after hearing the parties, pass such orders thereon as it thinks proper:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

*Explanation.*—In this section, “High Court” means the High Court of a State or Union territory in which the property referred to in section 18 is situated.’.

15. In section 20 of the principal Act, for the words “five hundred rupees” at both the places where they occur, the words “ten thousand rupees” shall be substituted. Amendment of section 20.

16. On and from the date of commencement of the principal Act, in section 22 of the principal Act, after the words “for the time being in force”, the brackets and words “(including any law of succession or any custom or usage in relation to succession of property)” shall be inserted and shall always be deemed to have been inserted. Amendment of section 22.

17. After section 22 of the principal Act, the following section shall be inserted and shall always be deemed to have been inserted with effect from the 2nd July, 2010, namely:— Insertion of new section 22A.

“22A. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,— Validation.

(a) the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, shall have and shall always be deemed to have effect for all purposes as if the provisions of this Act, as amended by the said Ordinance, had been in force at all material times;

(b) any enemy property divested from the Custodian to any person under the provisions of this Act, as it stood immediately before the commencement of the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the Custodian in the same manner as it was vested in the Custodian before such divesting of enemy property under the provisions of this Act, as if the provisions of this Act, as amended by the aforesaid Ordinance, were in force at all material times;

(c) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or



authority for the enforcement of any decree or order or direction given by such court or tribunal or authority directing divestment of enemy property from the Custodian vested in him under section 5 of this Act, as it stood before the commencement of the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, and such enemy property shall continue to vest in the Custodian under section 5 of this Act, as amended by the aforesaid Ordinance, as if the said section, as amended by the aforesaid Ordinance was in force at all material times;

(d) any transfer of any enemy property, vested in the Custodian, by virtue of any order of attachment, seizure or sale in execution of decree of a civil court or orders of any tribunal or other authority in respect of enemy property vested in the Custodian which is contrary to the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the Custodian under this Act.”.

Amendment of  
section 23.

18. In section 23 of the principal Act, in sub-section (2), clause (d) shall be omitted.

Power to  
remove  
difficulties.

19. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, or the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended by the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, as may appear to be necessary for removing the difficulty: 40 of 1971.

Provided that no such order shall be made under this section after the expiry of two years from the date on which the Bill replacing the Enemy Property (Amendment and Validation) Fourth Ordinance, 2016, receives the assent of the President.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

20. In the Public Premises (Eviction of Unauthorised Occupants) Act, 1971,—

Amendment of sections 2 and 3 of Act 40 of 1971.

(a) in section 2, in clause (e), after sub-clause (3), the following sub-clause shall be inserted, namely:—

34 of 1968.

“(4) any premises of the enemy property as defined in clause (c) of section 2 of the Enemy Property Act, 1968.”;

(b) in section 3, in clause (a),—

(i) in the second proviso, the word “and” shall be omitted;

(ii) after the second proviso, the following proviso shall be inserted, namely:—

34 of 1968.

“Provided also that the Custodian, Deputy Custodian and Assistant Custodian of the enemy property appointed under section 3 of the Enemy Property Act, 1968 shall be deemed to have been appointed as the Estate Officer in respect of those enemy property, being the public premises, referred to in sub-clause (4) of clause (e) of section 2 of this Act for which they had been appointed as the Custodian, Deputy Custodian and Assistant Custodian under section 3 of the Enemy Property Act, 1968.”.

Ord. 4 of 2010.  
34 of 1968.

40 of 1971.

21. Notwithstanding the cessation of the operation of the Enemy Property (Amendment and Validation) Ordinance, 2010, anything done or any action taken under the Enemy Property Act, 1968, or the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, as if the provisions of this Act, as amended by the said Ordinance had been in force at all material times.

Ord. 6 of 2016.

22. (1) The Enemy Property (Amendment and Validation) Third Ordinance, 2016 is hereby repealed.

Repeal and savings.



(2) Notwithstanding such repeal, anything done or any action taken under the Enemy Property Act, 1968 as amended 34 of 1968. by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Ordinance.

Sd/-  
**Pranab Mukharjee,**  
President.

Sd/-  
**Dr. G. Narayana Raju,**  
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-  
**C. J. GOTH,**  
Secretary to Government.



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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII ] MONDAY, SEPTEMBER 19, 2016/BHADRA 28, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### Legislative And Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 19<sup>th</sup> September, 2016.

No. RPB/235-2016/Act-10-16/E:— The following Act of Parliament is republished for general information:-

Government of India

#### MINISTRY OF LAW AND JUSTICE

#### Legislative Department

New Delhi, the 3<sup>rd</sup> March, 2016 Phalguna 13, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 3<sup>rd</sup> March, 2016 is hereby published for general information:-

#### THE ELECTION LAWS (AMENDMENT) ACT, 2016

(AS PASSED BY THE HOUSES OF PARLIAMENT)

#### AN ACT

[ Act No. 10 of 2016 ]

[3<sup>rd</sup> March, 2016.]

*further to amend the Representation of the People Act, 1950 and the Delimitation Act, 2002.*

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1.(1) This Act may be called the Election Laws (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.



**CHAPTER II**

## AMENDMENT TO THE REPRESENTATION OF THE PEOPLE ACT, 1950

Amendment  
of section 9.

2. In section 9 of the Representation of the People Act, 1950, in sub-section (1), 43 of 1950. after clause (b), the following clause shall be inserted, namely:—

"(c) make such amendments in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 as appear to it to be necessary or expedient for bringing the Order up-to-date by including therein and excluding therefrom the relevant areas, consequent upon the exchange of one hundred and eleven enclaves of India and fifty-one enclaves of Bangladesh with effect from 31st July, 2015, in pursuance of the Constitution (One Hundredth Amendment) Act, 2015."

**CHAPTER III**

## AMENDMENT TO THE DELIMITATION ACT, 2002

Amendment  
of section 11.

3. In section 11 of the Delimitation Act, 2002, in sub-section (1), in clause (b), 33 of 2002. the following proviso shall be inserted, namely:—

"Provided that the Election Commission may make such amendments, as appear to it to be necessary or expedient, for bringing the said orders up-to-date by including therein and excluding therefrom the relevant areas, consequent upon the exchange of one hundred and eleven enclaves of India and fifty-one enclaves of Bangladesh with effect from 31st July, 2015, in pursuance of the Constitution (One Hundredth Amendment) Act, 2015."

Sd/-

**Dr. G. Narayana Raju,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTHI,**  
Secretary to Government.

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સત્યમેવ જયતે

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII] FRIDAY, SEPTEMBER 20, 2016/BHADRA 29, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 20<sup>th</sup> September, 2016

No. RPB/236-2016/Act.11-16/E:— The following Act of Parliament is republished for general information:—

#### GOVERNMENT OF INDIA

#### MINISTRY OF LAW AND JUSTICE

#### Legislative Department

New Delhi, the 22<sup>nd</sup> March, 2016 (Chaitra 2, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 21<sup>st</sup> March, 2016 is hereby published for general information.

#### THE BUREAU OF INDIAN STANDARD ACT, 2016

(AS PASSED BY THE HOUSES OF PARLIAMENT)

*to provide for the establishment of a national standards body for the harmonious development of the activities of standardization, conformity assessment and quality assurance of goods, articles, processes, systems and services and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1.(1) This Act may be called the Bureau of Indian Standards Act, 2016.

Short title and commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(1) "article" means any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured or handmade within India or imported into India;



(2) "assaying and hallmarking centre" means a testing and marking centre recognised by the Bureau to determine the purity of precious metal articles and to apply hallmark on the precious metal articles in a manner as may be determined by regulations;

(3) "Bureau" means the Bureau of Indian Standards established under section 3;

(4) "certification officer" means a certification officer appointed under sub-section (1) of section 27;

(5) "certified body" means a holder of certificate of conformity or licence under sub-section (2) of section 13 in relation to any goods, article, process, system or service which conforms to a standard;

(6) "certified jeweller" means a jeweller who has been granted a certificate by the Bureau to get manufactured for sale or to sell any precious metal article after getting the same hallmarked in a manner as may be determined by regulations;

(7) "conformity assessment" means demonstration that requirements as may be specified relating to an article, process, system, service, person or body are fulfilled;

(8) "conformity assessment scheme" means a scheme relating to such goods, article, process, system or service as may be notified by the Bureau under section 12;

(9) "consumer" means a person as defined in the Consumer Protection Act, 1986;

68 of 1986.

(10) "covering" includes any stopper, cask, bottle, vessel, box, crate, cover, capsule, case, frame, wrapper, bag, sack, pouch or other container;

(11) "Director General" means the Director General appointed under sub-section (1) of section 7;

(12) "Executive Committee" means the Executive Committee constituted under sub-section (1) of section 4;

(13) "fund" means the fund constituted under section 20;

(14) "goods" includes all kinds of movable properties under the Sale of Goods Act, 1930, other than actionable claims, money, stocks and shares;

3 of 1930.

(15) "Governing Council" means a Governing Council constituted under sub-section (3) of section 3;

(16) "Hallmark" means in relation to precious metal article, the Standard Mark, which indicates the proportionate content of precious metal in that article as per the relevant Indian Standard;

(17) "Indian Standard" means the standard including any tentative or provisional standard established and published by the Bureau, in relation to any goods, article, process, system or service, indicative of the quality and specification of such goods, article, process, system or service and includes—

(i) any standard adopted by the Bureau under sub-section (2) of section 10; and

(ii) any standard established and published, or recognised, by the Bureau of Indian Standards established under the Bureau of Indian Standard Act, 1986, which was in force immediately before the commencement of this Act;

63 of 1986.

(18) "Indian Standards Institution" means the Indian Standards Institution registered under the Societies Registration Act, 1860;

21 of 1860.

(19) "jeweller" means a person engaged in the business to get manufactured precious metal article for sale or to sell precious metal articles;

(20) "licence" means a licence granted under section 13 to use a specified Standard Mark in relation to any goods, article, process, system or service, which conforms to a standard;

(21) "manufacturer" means a person responsible for designing and manufacturing any goods or article;

(22) "mark" includes a device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof;

(23) "member" means a member of the Governing Council, Executive Committee or any of the Advisory Committee;

(24) "notification" means a notification published in the Official Gazette and the expression "notify" or "notified" shall be construed accordingly;

(25) "person" means a manufacturer, an importer, a distributor, retailer, seller or lessor of goods or article or provider of service or any other person who uses or applies his name or trade mark or any other distinctive mark on to goods or article or while providing a service, for any consideration or gives goods or article or provides service as prize or gift for commercial purposes including their representative and any person who is engaged in such activities, where the manufacturer, importer, distributor, retailer, seller, lessor or provider of service cannot be identified;

(26) "precious metal" means gold, silver, platinum and palladium;

(27) "precious metal article" means any article made entirely or in part from precious metals or their alloys;

(28) "prescribed" means prescribed by rules made under this Act;

(29) "process" means a set of inter-related or interacting activities, which transforms inputs into outputs;

(30) "recognised testing and marking centre" means a testing and marking centre recognised by the Bureau under sub-section (5) of section 14;

(31) "recognised testing laboratory" means a testing laboratory recognised by the Bureau under sub-section (4) of section 13;

(32) "registering authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent;

(33) "regulations" means regulations made by the Bureau under this Act;

(34) "sale" means to sell, distribute, hire, lease or exchange of goods, article, process, system or service for any consideration or for commercial purposes;

(35) "seller" means a person who is engaged in the sale of any goods, article, process, system or service;

(36) "service" means the result generated by activities at the interface between an organisation and a customer and by organisation's internal activities, to meet customer requirements;

(37) "specification" means a description of goods, article, process, system or service as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or processing, consistency and reliability of service delivery or other characteristics to distinguish it from any other goods, article, process, system or service;

(38) "specified" means specified by the regulations;

(39) "standards" means documented agreements containing technical specifications or other precise criteria to be used consistently as rules, guidelines, or definitions of characteristics, to ensure that goods, articles, processes, systems and services are fit for their purpose;



(40) "Standard Mark" means the mark specified by the Bureau, and includes Hallmark, to represent conformity of goods, article, process, system or service to a particular Indian Standard or conformity to a standard, the mark of which has been established, adopted or recognised by the Bureau and is marked on the article or goods as a Standard Mark or on its covering or label attached to such goods or article so marked;

(41) "system" means a set of inter-related or interacting elements;

(42) "testing laboratory" means a body set up for the purpose of testing of goods or article against a set of requirements and report its findings;

(43) "trade mark" means a mark used or proposed to be used in relation to goods or article or process or system or service for the purpose of indicating, or so as to indicate, a connection in the course of trade of goods, article, process, system or service, as the case may be, and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity of that person.

## CHAPTER II

### BUREAU OF INDIAN STANDARDS

Establishment  
of Bureau and  
Constitution of  
Governing  
Council.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a national body for the purposes of this Act, a Bureau, to be called the Bureau of Indian Standards.

(2) The Bureau shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The members of the Governing Council shall constitute the Bureau and general superintendence, direction and management of the affairs of the Bureau shall vest in the Governing Council, which shall consist of the following members, namely:—

(a) the Minister in-charge of the Ministry or Department of the Central Government having administrative control of the Bureau who shall be *ex officio* President of the Bureau;

(b) the Minister of State or a Deputy Minister, if any, in the Ministry or Department of the Central Government having administrative control of the Bureau who shall be *ex officio* Vice-President of the Bureau, and where there is no such Minister of State or Deputy Minister, such person as may be nominated by the Central Government to be the Vice-President of the Bureau;

(c) the Secretary to the Government of India of the Ministry or Department of the Central Government having administrative control of the Bureau, *ex officio*;

(d) the Director General of the Bureau, *ex officio*;

(e) such number of other persons to represent the Government, industry, scientific and research institutions, consumers and other interests, as may be prescribed, to be appointed by the Central Government.

(4) The term of office of the members referred to in clause (e) of sub-section (3) and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by the members, shall be such as may be prescribed:

Provided that a member, other than an *ex officio* member of the Bureau of Indian Standards constituted under the Bureau of Indian Standards Act, 1986, shall, after the commencement of this Act, continue to hold such office as member till the completion of his term.

(5) The Governing Council may associate with itself, in such manner and for such purposes as may be prescribed, any person whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Governing Council relevant to the purposes for which he has been associated but shall not have the right to vote.

(6) The Governing Council may, by general or special order in writing, delegate to any member, the Director General or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act except the powers under section 37 as it may deem necessary.

4. (1) The Governing Council may, with the prior approval of the Central Government, by notification in the Official Gazette, constitute an Executive Committee which shall consist of the following members, namely:—

Executive  
Committee of  
Bureau.

- (a) Director General of the Bureau, who shall be its *ex officio* Chairman; and
- (b) such number of members, as may be prescribed.

(2) The Executive Committee constituted under sub-section (1) shall perform, exercise and discharge such functions, powers and duties of the Bureau, as may be delegated to it by the Governing Council.

5. (1) Subject to any regulations made in this behalf, the Governing Council may, from time to time and as and when it is considered necessary, constitute the following Advisory Committees for the efficient discharge of the functions of the Bureau, namely:—

Advisory  
Committees of  
Bureau.

- (a) Finance Advisory Committee;
- (b) Conformity Assessment Advisory Committee;
- (c) Standards Advisory Committee;
- (d) Testing and Calibration Advisory Committee; and
- (e) such number of other committees as may be specified by regulations.

(2) Each Advisory Committee shall consist of a Chairman and such other members as may be specified by regulations.

6. No act or proceedings of the Governing Council, under section 3 shall be invalid merely by reason of—

Vacancies,  
etc., not to  
invalidate act  
or  
proceedings.

- (a) any vacancy in, or any defect in the constitution of the Governing Council; or
- (b) any defect in the appointment of a person acting as a member of the Governing Council; or
- (c) any irregularity in the procedure of the Governing Council not affecting the merits of the case.

7. (1) The Central Government shall appoint a Director General of the Bureau.

Director  
General.

(2) The terms and conditions of service of the Director General of the Bureau shall be such as may be prescribed.

(3) Subject to the general superintendence and control of the Governing Council, the Director General of the Bureau shall be the Chief Executive Authority of the Bureau.

(4) The Director General of the Bureau shall exercise and discharge such of the powers and duties of the Bureau as may be specified by regulations.

(5) The Director General may, by general or special order in writing, delegate to any officer of the Bureau subject to such conditions, if any, as may be specified in the order, such of his powers and functions as are assigned to him under the regulations or are delegated to him by the Governing Council, as he may deem necessary.



Officers and  
employees of  
Bureau.

8. (1) The Bureau may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of officers and employees of the Bureau appointed under sub-section (1) shall be such as may be specified by regulations.

Powers and  
functions of  
Bureau.

9. (1) The powers and duties as may be assigned to the Bureau under this Act shall be exercised and performed by the Governing Council and, in particular, such powers may include the power to—

(a) establish branches, offices or agencies in India or outside;

(b) recognise, on reciprocal basis or otherwise, with the prior approval of the Central Government, the mark of any international body or institution, on such terms and conditions as may be mutually agreed upon by the Bureau in relation to any goods, article, process, system or service at par with the Standard Mark for such goods, article, process, system or service;

(c) seek recognition of the Bureau and of the Indian Standards outside India on such terms and conditions as may be mutually agreed upon by the Bureau with any corresponding institution or organisation in any country or with any international organisation;

(d) enter into and search places, premises or vehicles, and inspect and seize goods or articles and documents to enforce the provisions of this Act;

(e) provide services to manufacturers and consumers of goods or articles or processes for compliances of standards on such terms and conditions as may be mutually agreed upon;

(f) provide training services in relation to quality management, standards, conformity assessment, laboratory testing and calibration, and any other related areas;

(g) publish Indian Standards and sell such publications and publications of international bodies;

(h) authorise agencies in India or outside India for carrying out any or all activities of the Bureau and such other purposes as may be necessary on such terms and conditions as it deems fit;

(i) obtain membership in regional, international and foreign bodies having objects similar to that of the Bureau and participate in international standards setting process;

(j) undertake testing of samples for purposes other than for conformity assessment; and

(k) undertake activities relating to legal metrology.

(2) The Bureau shall take all necessary steps for promotion, monitoring and management of the quality of goods, articles, processes, systems and services, as may be necessary, to protect the interests of consumers and various other stake holders which may include the following namely:—

(a) carrying out market surveillance or survey of any goods, article, process, system or service to monitor their quality and publish findings of such surveillance or surveys;

(b) promotion of quality in connection with any goods, article, process, system or service by creating awareness among the consumers and the industry and educate them about quality and standards in connection with any goods, article, process, system and service;

(c) promotion of safety in connection with any goods, article, process, system or service;

(d) identification of any goods, articles, process, system or service for which there is a need to establish a new Indian Standard, or to revise an existing Indian Standard;

(e) promoting the use of Indian Standards;

(f) recognising or accrediting any institution in India or outside which is engaged in conformity certification and inspection of any goods, article, process, system or service or of testing laboratories;

(g) coordination and promotion of activities of any association of manufacturers or consumers or any other body in relation to improvement in the quality or in the implementation of any quality assurance activities in relation to any goods, article, process, system or service; and

(h) such other functions as may be necessary for promotion, monitoring and management of the quality of goods, articles, processes, systems and services and to protect the interests of consumers and other stake holders.

(3) The Bureau shall perform its functions under this section through the Governing Council in accordance with the direction and subject to such rules as may be made by the Central Government.

### CHAPTER III

#### INDIAN STANDARDS, CERTIFICATION AND LICENCE

10. (1) The standards established by the Bureau shall be the Indian Standards.

Indian  
Standards.

(2) The Bureau may—

(a) establish, publish, review and promote the Indian Standard, in relation to any goods, article, process, system or service in such manner as may be prescribed;

(b) adopt as Indian Standard, any standard, established by any other Institution in India or elsewhere, in relation to any goods, article, process, system or service in such manner as may be prescribed;

(c) recognise or accredit any institution in India or outside which is engaged in standardisation;

(d) undertake, support and promote such research as may be necessary for formulation of Indian Standards.

(3) The Bureau, for the purpose of this section, shall constitute, as and when considered necessary, such number of technical committees of experts for the formulation of standards in respect of goods, articles, processes, systems or services, as may be necessary.

(4) The Indian Standard shall be notified and remain valid till withdrawn by the Bureau.

(5) Notwithstanding anything contained in any other law, the copyright in an Indian Standard or any other publication of the Bureau shall vest in the Bureau.

11. (1) No individual shall, without the authorisation of the Bureau, in any manner or form, publish, reproduce or record any Indian Standard or part thereof, or any other publication of the Bureau.

Prohibition to  
publish,  
reproduce or  
record without  
authorisation  
by Bureau.

(2) No person shall issue a document that creates, or may create the impression that it is or contains an Indian Standard, as contemplated in this Act:

Provided that nothing in this sub-section shall prevent any individual from making a copy of Indian Standard for his personal use.



Conformity  
Assessment  
scheme.

12. (1) The Bureau may notify a specific or different conformity assessment scheme for any goods, article, process, system or service or for a group of goods, articles, processes, systems or services, as the case may be, with respect to any Indian Standard or any other standard in a manner as may be specified by regulations.

(2) The Bureau may establish a Standard Mark in relation to each of its conformity assessment schemes, which shall be of such design and contain such particulars as may be specified by regulations to represent a particular standard.

Grant of  
licence or  
certificate of  
conformity.

13. (1) A person may apply for grant of licence or certificate of conformity, as the case may be, if the goods, article, process, system or service conforms to an Indian Standard.

(2) Where any goods, article, process, system or service conforms to a standard, the Director General may, by an order, grant—

(a) a certificate of conformity in a manner as may be specified by regulations; or

(b) a licence to use or apply a Standard Mark in a manner as may be specified by regulations,

subject to such conditions and on payment of such fees, including late fee or fine, before or during the operation of the certificate of conformity or licence, and as determined by regulations.

(3) While granting a certificate of conformity or licence to use a Standard Mark, the Bureau may, by order, specify the marking and labelling requirements that shall necessarily be affixed as may be specified from time to time.

(4) The Bureau may establish, maintain or recognise testing laboratories for the purposes of conformity assessment and quality assurance and for such other purposes as may be required for carrying out its functions.

Certification  
of Standard  
Mark of  
jewellers and  
sellers of  
certain  
specified  
goods or  
articles.

14. (1) The Central Government, after consulting the Bureau, may notify precious metal articles or other goods or articles as it may consider necessary, to be marked with a Hallmark or Standard Mark, as the case may be, in a manner as specified in sub-section (2).

(2) The goods or articles notified in sub-section (1) may be sold through retail outlets certified by the Bureau after such goods or articles have been assessed for conformity to the relevant standard by testing and marking centre, recognised by the Bureau and marked with Hallmark or Standard Mark, as the case may be, as specified by regulations.

(3) The Central Government may, after consulting the Bureau, by an order published in the Official Gazette, make it compulsory for the sellers of goods or article notified under sub-section (1) to be sold only through certified sales outlets fulfilling such conditions as may be determined by regulations.

(4) The Bureau may, by an order, grant, renew, suspend or cancel certification of Standard Mark or Hallmark of a jeweller or any other seller for sale of goods or articles notified under sub-section (1) in such manner as may be determined by regulations.

(5) The Bureau may establish, maintain and recognise testing and marking centres, including assaying and hallmarking centres, for conformity assessment and application of Standard Mark, including Hallmark, on goods or articles notified under sub-section (1), in a manner as may be specified by regulations.

(6) No testing and marking centre or assaying and hallmarking centre, other than the recognised by the Bureau, shall with respect to goods or articles notified under sub-section (1), use, affix, emboss, engrave, print or apply in any manner the Standard Mark, including the Hallmark, or colourable imitation thereof, on any goods or article; and make any claim in relation to the use and application of a Standard Mark, including the Hallmark, through advertisements, sales promotion leaflets, price lists or the like.



(7) Every recognised testing and marking centre, including assaying and hallmarking centre, shall use or apply Standard Mark on good or articles notified under sub-section (1), including Hallmark on precious metal articles, after accurately determining the conformity of the same in a manner as may be specified.

(8) No recognised testing and marking centre, including assaying and hallmarking centre, shall, notwithstanding that it has been recognised under sub-section (5), use or apply in relation to any goods or article notified under sub-section (1) a Standard Mark, including Hallmark, or any colourable imitation thereof, unless such goods or article conforms to the relevant standard.

15. (1) No person shall import, distribute, sell, store or exhibit for sale, any goods or article under sub-section (1) of section 14, except under certification from the Bureau.

Prohibition to import, sell, exhibit, etc.

(2) No person, other than that certified by the Bureau, shall sell or display or offer to sell goods or articles that are notified under sub-section (3) of section 14 and marked with the Standard Mark, including Hallmark and claim in relation to the Standard Mark, including Hallmark, through advertisements, sales promotion leaflets, price lists or the like.

(3) No certified jeweller or seller shall sell or display or offer to sell any notified goods or articles, notwithstanding that he has been granted certification, with the Standard Mark, including Hallmark, or any colourable imitation thereof, unless such goods or article is marked with a Standard Mark or Hallmark, in a manner as may be specified by regulations, and unless such goods or article conforms to the relevant standard.

16. (1) If the Central Government is of the opinion that it is necessary or expedient so to do in the public interest or for the protection of human, animal or plant health, safety of the environment, or prevention of unfair trade practices, or national security, it may, after consulting the Bureau, by an order published in the Official Gazette, notify—

Central Government to direct compulsory use of Standard Mark.

(a) goods or article of any scheduled industry, process, system or service; or

(b) essential requirements to which such goods, article, process, system or service,

which shall conform to a standard and direct the use of the Standard Mark under a licence or certificate of conformity as compulsory on such goods, article, process, system or service.

*Explanation.*—For the purpose of this sub-section,—

(i) the expression “scheduled industry” shall have the meaning assigned to it in the Industries (Development and Regulation) Act, 1951;

65 of 1951.

(ii) it is hereby clarified that essential requirements are requirements, expressed in terms of the parameters to be achieved or requirements of standard in technical terms that effectively ensure that any goods, article, process, system or service meet the objective of health, safety and environment.

(2) The Central Government may, by an order authorise Bureau or any other agency having necessary accreditation or recognition and valid approval to certify and enforce conformity to the relevant standard or prescribed essential requirements under sub-section (1).

17. (1) No person shall manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods, article, process, system or service under sub-section (1) of section 16—

Prohibition to manufacture, sell, etc., certain goods without Standard Mark.

(a) without a Standard Mark, except under a valid licence; or

(b) notwithstanding that he has been granted a license, apply a Standard Mark, unless such goods, article, process, system or service conforms to the relevant standard or prescribed essential requirements.

(2) No person shall make a public claim, through advertisements, sales promotion leaflets, price lists or the like, that his goods, article, process, system or service conforms to an Indian standard or make such a declaration on the goods or article, without having a valid certificate of conformity or licence from the Bureau or any other authority approved by the Central Government under sub-section (2) of section 16.



(3) No person shall use or apply or purport to use or apply in any manner, in the manufacture, distribution, sale, hire, lease or exhibit or offer for sale of any goods, article, process, system or service, or in the title of any patent or in any trade mark or design, a Standard Mark or any colourable imitation thereof, except under a valid licence from the Bureau.

Obligations of  
licence holder,  
seller, etc.

18. (1) The licence holder shall, at all times, remain responsible for conformance of the goods, articles, processes, systems or services carrying the Standard Mark.

(2) It shall be the responsibility of the distributor or the seller, as the case may be, to ensure that goods, articles, processes, systems or services carrying the Standard Mark are purchased from certified body or licence holder.

(3) It shall be the responsibility of the seller before the goods or article is sold or offered to be sold or exhibited or offered for sale to ensure that—

(a) goods, articles, processes, systems or services carrying the Standard Mark bear the requisite labels and marking details, as specified by the Bureau from time to time;

(b) the marking and labelling requirements on the product or covering is displayed in a manner that has been specified by the Bureau.

(4) Every certified body or licence holder shall supply to the Bureau with such information and with such samples of any material or substance used in relation to any goods, article, process, system or service, as the case may be, as the Bureau may require for monitoring its quality and for the recovery of the fee as may be prescribed in the certificate of conformity or the licence.

(5) (a) The Bureau may make such inspection and take such samples of any material or substance as may be necessary to see whether any goods, article, process, system or service, in relation to which a Standard Mark has been used, conforms to the requirements of the relevant standard or whether the Standard Mark has been properly used in relation to any goods, article, process, system or service with or without a licence.

(b) The Bureau may publicise the results of its findings and the directions given in pursuance thereof.

(6) If the Bureau is satisfied under the provisions of sub-sections (4) and (5) that the goods, articles, processes, systems or services in relation to which a Standard Mark has been used do not conform to the requirements of the relevant standard, the Bureau may direct the certified body or licence holder or his representative to stop the supply and sale of non-conforming goods or articles and recall the non-conforming goods or articles that have already been supplied or offered for sale and bear such mark from the market or any such place from where they are likely to be offered for sale or prohibit to provide the service.

(7) Where a certified body or licence holder or his representative has sold goods, articles, processes, system or services, which bear a Standard Mark or any colourable imitation thereof, which do not conform to the relevant standard, the Bureau shall direct the certified body or licence holder or his representative to—

(a) repair or replace or reprocess the standard marked goods, article, process, system or service in a manner as may be specified; or

(b) pay compensation to the consumer as may be prescribed by the Bureau; or

(c) be liable for the injury caused by non-conforming goods or article, which bears a Standard Mark, as per the provisions of section 31.

## CHAPTER IV

## FINANCE, ACCOUNTS AND AUDIT

19. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Bureau grants and loans of such sums of money as the Government may consider necessary.

Financial  
Management  
of Bureau of  
Indian  
Standards.

20. (1) There shall be constituted a fund to be called the Bureau of Indian Standards fund and there shall be credited thereto—

Fund of  
Bureau.

(a) any grants and loans made to the Bureau by the Central Government;

(b) all fees and charges received by the Bureau under this Act;

(c) all fines received by the Bureau;

(d) all sums received by the Bureau from such other sources as may be decided upon by the Central Government.

(2) The fund shall be applied for meeting—

(a) the salary, allowances and other remuneration of the members, Director General, officers and other employees of the Bureau;

(b) expenses of the Bureau in the discharge of its functions under the Act; and

(c) expenses on objects and for purposes authorised by this Act:

Provided that the fines received in clause (c) of sub-section (1) shall be used for consumer awareness, consumer protection and promotion of quality of goods, articles, processes, system or services in the country.

21. (1) The Bureau may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source as it may deem fit for discharging all or any of its functions under this Act.

Borrowing  
powers of  
Bureau

(2) The Central Government may guarantee in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by Bureau under sub-section (1).

22. The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Bureau and forward the same to the Central Government.

Budget.

23. (1) The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

Annual report.

(2) The Central Government shall cause the annual report to be laid, as soon as may be after it is received, before each House of Parliament.

24. (1) The Bureau shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and  
audit.

(2) The accounts of the Bureau shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Bureau to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Bureau shall have the same rights and



privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any office of the Bureau.

(4) The accounts of the Bureau as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

## CHAPTER V

### MISCELLANEOUS

Power of  
Central  
Government to  
issue  
directions.

25. (1) Without prejudice to the foregoing provisions of this Act, the Bureau shall, in the exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Bureau shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

(3) The Central Government may take such other action as may be necessary for the promotion, monitoring and management of quality of goods, articles, processes, systems and services and to protect the interests of consumers and various other stakeholders and notify any other goods, articles, processes, systems and services for the purpose of sub-section (1) of section 16.

Restriction on  
use of name of  
Bureau and  
Indian  
Standard.

26. (1) No person shall, with a view to deceive or likely to deceive the public, use without the previous permission of the Bureau,—

(a) any name which so nearly resembles the name of the Bureau as to deceive or likely to deceive the public or the name which contains the expression "Indian Standard" or any abbreviation thereof; or

(b) any title of any patent or mark or trade mark or design, in relation to any goods, article, process, system or service, containing the expressions "Indian Standard" or "Indian Standard Specification" or any abbreviation of such expressions.

(2) Notwithstanding anything contained in any law for the time being in force, no registering authority shall—

(a) register any company, firm or other body of persons which bears any name or mark; or

(b) register a trade mark or design which bears any name or mark; or

(c) grant a patent, in respect of an invention, which bears a title containing any name or mark,

if the use of such name or mark is in contravention of sub-section (1).

(3) If any question arises before a registering authority whether the use of any name or mark is in contravention of sub-section (1), the registering authority may refer the question to the Central Government whose decision thereon shall be final.

Appointment  
and powers of  
certification  
officers.

27. (1) The Bureau may appoint as many certification officers as may be necessary for the purpose of inspection whether any goods, article, process, system or service in relation to which the Standard Mark has been used conforms to the relevant standard or whether the Standard Mark has been properly used in relation to any goods, article, process, system or service with or without licence, and for performing such other functions as may be assigned to them.

(2) Subject to any rules made under this Act, a certification officer shall have power to—

(a) inspect any operation carried on in connection with any goods, article, process, system or service in relation to which the Standard Mark has been used; and

(b) take samples of any goods or article or of any material or substance used in any goods, article, process, system or service, in relation to which the Standard Mark has been used.

(3) Every certification officer shall be furnished by the Bureau with a certificate of appointment as a certification officer, and the certificate shall, on demand, be produced by the certification officer.

(4) Every certified body or licence holder shall—

(a) provide reasonable facilities to certification officer to enable him to discharge the duties imposed on him;

(b) inform certification officer or the Bureau of any change in the conditions which were declared or verified by the certification officer or the Bureau at the time of grant of certificate of conformity or licence.

(5) Any information obtained by a certification officer or the Bureau from any statement made or information supplied or any evidence given or from inspection made under the provisions of this Act shall be treated as confidential:

Provided that nothing shall apply to the disclosure of any information for the purpose of prosecution and protection of interest of consumers.

28. (1) If the certification officer has reason to believe that any goods or articles, process, system or service in relation to which the contravention of section 11 or sub-sections (6) or (8) of section 14 or section 15 or section 17 has taken place are secreted in any place, premises or vehicle, he may enter into and search such place, premises or vehicle for such goods or articles, process, system or service, as the case may be.

Power to search and seizure.

(2) Where, as a result of any search made under sub-section (1), any goods or article, process, system or service has been found in relation to which contravention of section 11 or sub-sections (6) or (8) of section 14 or section 15 or section 17 has taken place, the certification officer may seize such goods or article and other material and documents which, in his opinion will be useful for, or relevant to any proceeding under this Act:

Provided that where it is not practicable to seize any such goods or article or material or document, the certification officer may serve on the owner an order that he shall not remove, part with, or otherwise deal with, the goods or article or material or document except with the previous permission of the certification officer.

2 of 1974.

(3) The provision of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this section.

29. (1) Any person who contravenes the provisions of section 11 or sub-section (1) of section 26 shall be punishable with fine which may extend to five lakh rupees.

Penalty for contravention.

(2) Any person who contravenes the provisions of sub-sections (6) or (8) of section 14 or section 15 shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees, but may extend up to five times the value of goods or articles produced or sold or offered to be sold or affixed or applied with a Standard Mark including Hallmark, or with both:

Provided that where the value of goods or articles produced or sold or offered to be sold cannot be determined, it shall be presumed that one year's production was in such contravention and the annual turnover in the previous financial year shall be taken as the value of goods or articles for such contravention.



(3) Any person who contravenes the provisions of section 17 shall be punishable with imprisonment for a term which may extend up to two years or with fine which shall not be less than two lakh rupees for the first contravention and not be less than five lakh rupees for the second and subsequent contraventions, but may extend up to ten times the value of goods or articles produced or sold or offered to be sold or affixed or applied with a Standard Mark, including Hallmark, or with both:

Provided that where the value of goods or articles produced or sold or offered to be sold cannot be determined, it shall be presumed that one year's production was in such contravention and the annual turnover in the previous financial year shall be taken as the value of goods or articles for such contravention.

(4) The offence under sub-section (3) shall be cognizable.

Offences by  
companies.

30. Where an offence under this Act has been committed by a company, every director, manager, secretary or other officer of the company who, at the time the offence was committed, was in charge of and was responsible to the company for the conduct of the business of the company, or authorised representative of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly, irrespective of the fact that the offence has been committed with or without the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, or authorised representative of the company.

*Explanation.*—For the purposes of this section,—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Compensation  
for non-  
conforming  
goods.

31. Where a holder of licence or certificate of conformity or his representative has sold any goods, article, process, system or service, which bears a Standard Mark not conforming to the relevant standard, or with colourable imitation, the certified body or licence holder or his representative shall be liable to compensate the consumer for the injury caused by such non-conforming goods, article, process, system or service in such manner as may be prescribed.

Cognizance of  
offence by  
courts.

32. (1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, specially empowered in this behalf, shall try any offence punishable under this Act.

(2) No court shall take cognizance of any offence punishable under this Act save on a complaint made by—

(a) or under the authority of the Bureau; or

(b) any police officer, not below the rank of deputy superintendent of police or equivalent; or

(c) any authority notified under sub-section (2) of section 16; or

(d) any officer empowered under the authority of the Government; or

(e) any consumer; or

(f) any association.

(3) Any police officer not below the rank of deputy superintendent of police or equivalent, may, if he is satisfied that any of the offences referred to in sub-section (3) of section 29 has been, is being, or is likely to be, committed, search and seize without warrant, the goods, die, block, machine, plate, other instruments or things involved in committing the offence, wherever found, and all the articles so seized shall, as soon as practicable, be produced before a Magistrate as prescribed under sub-section (1).

(4) The court may direct that any property in respect of which the contravention has taken place shall be forfeited to the Bureau.

(5) The court may direct that any fine, in whole or any part thereof, payable under the provisions of this Act, shall be payable to the Bureau.

2 of 1974.

33. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed for the first time, punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by an officer so authorised by the Director General, in such manner as may be prescribed:

Compounding  
of offence

Provided that the sum so specified shall not in any case exceed the maximum amount of the fine which may be imposed under section 29 for the offence so compounded; and any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded shall be deemed to be an offence committed for the first time.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Bureau.

(3) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

(4) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence against the offender in relation to whom the offence is so compounded.

(5) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought to the notice of the court in which the prosecution is pending in writing by the officer referred to in sub-section (1), and on such notice of the composition of the offence being given and its acceptance by the court, the person against whom the offence is so compounded shall be discharged.

34. (1) Any person aggrieved by an order made under section 13 or sub-section (4) of section 14 or section 17 of this Act may prefer an appeal to Director General of the Bureau within such period as prescribed.

Appeal.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Director General that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(5) The Director General may *suo motu* or on an application made in the manner prescribed review the order passed by any officer to whom the power has been delegated by him.

(6) Any person aggrieved by an order made under sub-section (1) or sub-section (5) may prefer an appeal to the Central Government having administrative control of the Bureau within such period as may be prescribed.



Members, officers and employees of Bureau to be public servants.	35. All members, officers and other employees of the Bureau shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.	45 of 1860.
Protection of action taken in good faith.	36. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or any member, officer or other employee of the Bureau for anything which is in done or intended to be done in good faith under this Act or the rules or regulations made thereunder.	
Authentication of orders and other instruments of Bureau.	37. All orders and decisions of, and all other instruments issued by, the Bureau shall be authenticated by the signature of such officer or officers as may be authorised by the Bureau in this behalf.	
Power to make rules.	38. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.	
Power to make regulations.	39. The Executive Committee may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules to carry out the purposes of this Act.	
Rules and regulations to be laid before Parliament.	40. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.	
Act not to affect operation of certain Acts.	41. Nothing in this Act shall affect the operation of the Agricultural Produce (Grading and Marking) Act, 1937 or the Drugs and Cosmetics Act, 1940, or any other law for the time being in force, which deals with any standardisation or quality control of any goods, article, process, system or service.	1 of 1937. 23 of 1940.
Power to remove difficulties.	42. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:  Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.  (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.	
Repeal and savings.	43. (1) The Bureau of Indian Standards Act, 1986 is hereby repealed.  (2) Notwithstanding such repeal, anything done or any action taken or purported to have done or taken including any rule, regulation, notification, scheme, specification, Indian Standard, Standard Mark, inspection order or notice made, issued or adopted, or any appointment, or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or direction given or any proceedings taken or any penalty or fine imposed under the Act hereby repealed shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.	63 of 1986.

10 of 1897.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

Sd/-

**Dr. G. Narayana Raju,**  
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTHI,**  
Secretary to Government.

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Government Central Press, Gandhinagar.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII] TUESDAY, SEPTEMBER 20, 2016/BHADRA 29, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 20<sup>th</sup> September, 2016.

No. RPB/236-2016/Act.-13-16-E:— The following Act of Parliament is republished for general information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 22<sup>nd</sup> March, 2016, Chaitra 2, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 21<sup>st</sup> March, 2016 is hereby published for general information:-

THE HIGH COURT AND THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) AMENDMENT ACT, 2016

[ ACT No. 13 of 2016 ]                      AN ACT                      [ 21<sup>st</sup> March, 2016 ]

*further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### CHAPTER I

##### PRELIMINARY

1. (1) This Act may be called the High Court and the Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2016.

Short title and commencement.

(2) The provisions of section 8 shall be deemed to have come into force on the 1<sup>st</sup> day of April, 2004 and the remaining provisions shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

## CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (SALARIES AND  
CONDITIONS OF SERVICE) ACT, 1954Amendment  
of section 2.

2. In the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), in section 2,—

(a) in sub-section (1),—

(i) in clause (b), the words, brackets and figures "under sub-section (2) of section 222 of the Government of India Act, 1935 or" shall be omitted;

(ii) in clause (d), the words, brackets and figures "under sub-section (3) of section 222 of the Government of India Act, 1935 or" shall be omitted;

(iii) clause (e) shall be omitted;

(b) in sub-section (2), for the words "previous service for any period or periods as acting Judge or additional Judge or as a Judge of a former Indian High Court", the words "service for any period or periods as acting Judge or additional Judge" shall be substituted;

(c) sub-sections (3) and (4) shall be omitted.

Amendment  
of section 3.

3. In the High Court Judges Act, in section 3, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) For the purposes of this Chapter, casual leave may be admissible to a Judge in a calendar year, for such number of days and subject to such conditions as may be prescribed."

Amendment  
of section  
4A.

4. In the High Court Judges Act, in section 4A, for the words "in respect of the period of earned leave at his credit", the words "in respect of the period of leave at his credit, calculated on full allowances basis," shall be substituted.

Substitution  
of new  
section for  
section 9.

5. In the High Court Judges Act, for section 9, the following section shall be substituted, namely:—

Leave  
allowances.

"9. The monthly rate of leave salary payable to a Judge shall be in accordance with the provisions of sub-section (1) of section 3."

Omission of  
section 10.

6. In the High Court Judges Act, section 10 shall be omitted.

Amendment  
of section 14.

7. In the High Court Judges Act, in section 14, in the first proviso,—

(i) for clause (b), the following clause shall be substituted, namely:—

"(b) he has attained the age of sixty-two years; or";

(ii) for the Explanation, the following shall be substituted, namely:—

'Explanation.—In this section "Judge" means a Judge who has not held any other pensionable post under the Union or a State and includes a Judge who having held any other pensionable post under the Union or a State has elected to receive the pension payable under Part I of the First Schedule.'

Insertion of  
new section  
14A.—

8. In the High Court Judges Act, after section 14, the following section shall be inserted, namely:—

Benefit of  
added years of  
service.

"14A. Subject to the provisions of this Act, a period of ten years shall be added and shall be deemed to have been added from the 1st day of April, 2004 for the purposes of pension, to the service of a Judge who is appointed as such Judge under sub-clause (b) of clause (2) of article 217 of the Constitution."

Amendment  
of section 15.

9. In the High Court Judges Act, in section 15,—

(a) in sub-section (1),—

(i) clause (a) shall be omitted;



(ii) in clause (b), the words "is not a member of the Indian Civil Service but" shall be omitted;

(iii) in the proviso for the words and figures, "as the case may be, Part II or" shall be omitted;

(b) in sub-section (2), the words and figures "Part II or, as the case may be" shall be omitted.

10. In the High Court Judges Act, in section 16, in the proviso, the words and figures "Part II or" shall be omitted. Amendment of section 16.

11. In the High Court Judges Act, in section 17A,—

(a) in sub-section (1), in the *Explanation*, in clause (ii), the words and figures "Part II or" shall be omitted; Amendment of section 17A.

(b) in sub-section (2), the words and figures "Part II or" shall be omitted.

12. In the High Court Judges Act, section 18 shall be omitted. Omission of section 18.

13. In the High Court Judges Act, in section 20,—

(a) in the first proviso, the words "is a member of the Indian Civil Service or" shall be omitted; Amendment of section 20.

(b) the second proviso, shall be omitted.

14. In the High Court Judges Act, section 23B shall be omitted. Omission of section 23B.

15. In the High Court Judges Act, in section 24, in sub-section (2), after clause (a), the following clause shall be inserted, namely:— Amendment of section 24.

"(aa) the number of casual leaves and the conditions subject to which it may be allowed under sub-section (3) of section 3;"

16. In the High Court Judges Act, section 25 shall be omitted. Omission of section 25.

17. In the High Court Judges Act, in the First Schedule,—

(a) in Part I,—

(i) for paragraph 1, the following paragraph shall be substituted, namely:—

"1. The provisions of this Part apply to a Judge who has not held any other pensionable post under the Union or a State or a Judge who having held any other pensionable post under the Union or a State has elected to receive the pension payable under this Part."

(ii) in paragraph 2, for the words "and who has completed not less than seven years of service" shall be omitted;

(iii) paragraphs 8 and 9 shall be omitted.

(b) Part II shall be omitted. Amendment to First Schedule.

### CHAPTER III

#### AMENDMENT OF THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1958

41 of 1958.

18. In the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), in section 2, in clause (g), for the words "either in the Federal Court or in the Supreme Court or in any such Court", the words "in the Supreme Court" shall be substituted. Amendment of section 2.

19. In the Supreme Court Judges Act, in section 3, after sub-section (2), the following sub-section shall be inserted, namely:— Amendment of section 3.

"(3) For the purposes of this Chapter, casual leave may be admissible to a Judge in a calendar year, for such number of days and subject to such conditions as may be prescribed."

Amendment  
of section  
4A.

20. In the Supreme Court Judges Act, in section 4A, for the words "in respect of the period of earned leave at his credit", the words "in respect of the period of leave at his credit, calculated on full allowances basis," shall be substituted.

Substitution  
of new  
section for  
section 9.  
Leave  
allowances.

21. In the Supreme Court Judges Act, for section 9, the following section shall be substituted, namely:—

"9. The monthly rate of leave salary payable to a Judge shall be in accordance with the provisions of sub-section (1) of section 3."

Amendment  
of section 13.

22. In the Supreme Court Judges Act, in section 13, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

*'Explanation.—*In this section, "Judge" means a Judge who has not held any other pensionable post under the Union or a State and includes a person who was in service as a Judge on the 20th May, 1954, and also includes a Judge having held any other pensionable post under the Union or a State, who has elected to receive the pension payable under Part I of the Schedule.'

Amendment  
of section 14.

23. In the Supreme Court Judges Act, in section 14,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every Judge who has held any other pensionable post under the Union or a State shall, on his retirement, be paid a pension in accordance with the provisions of Part III of the Schedule:

Provided that every such Judge shall elect to receive the pension payable to him either under Part I of the Schedule, or as the case may be, Part III of the Schedule, and the pension payable to him shall be calculated accordingly."

(b) in sub-section (2), the words and figures "Part II or, as the case may be," shall be omitted.

Amendment  
of section  
16A.

24. In the Supreme Court Judges Act, in section 16A, in sub-section (1), the *Explanation*, in clause (ii), the words and figures "Part II or" shall be omitted.

Omission of  
section 18.

25. In the Supreme Court Judges Act, section 18 shall be omitted.

Amendment  
of section 20.

26. In the Supreme Court Judges Act, in section 20, in the first proviso, the words "is a member of the Indian Civil Service or" shall be omitted.

Amendment  
of section 24.

27. In the Supreme Court Judges Act, in section 24, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

"(aa) the number of casual leaves and the conditions subject to which it may be allowed under sub-section (3) of section 3."

Amendment  
of Schedule.

28. In the Supreme Court Judges Act, in the Schedule,—

(a) in Part I, for paragraph 1, the following paragraph shall be substituted, namely:—

"1. The provisions of this Part apply to a Judge who has not held any other pensionable post under the Union or a State and also apply to a person who was in service as a Judge on the 20th May, 1954, and to a Judge who, having held any other pensionable posts under the Union or a State, has elected to receive the pension payable under this Part."

(b) Part II shall be omitted.

Sd/-

**Dr. G. Narayana Raju,**

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. Gothi,**

Secretary to Government.





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# The Gujarat Government Gazette

EXTRAORDINARY  
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## PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 23<sup>rd</sup> September, 2016

No. RPB/237-2016/Act.16-16/E:— The following Act of Parliament is republished for general information:-

### GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 26<sup>th</sup> March, 2016 (Chaitra 6, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 25<sup>th</sup> March, 2010 is hereby published for general information:-

### THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016

#### AN ACT

[ Act No. 16 of 2016 ]

[ 25<sup>th</sup> March, 2016 ]

*to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be. or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Real Estate (Regulation and Development) Act, 2016.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:



Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

## Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "adjudicating officer" means the adjudicating officer appointed under sub-section (1) of section 71;

(b) "advertisement" means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes;

(c) "agreement for sale" means an agreement entered into between the promoter and the allottee;

(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

(e) "apartment" whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop showroom or godown or for carrying on any business, occupation, profession or trade or for any other type of use ancillary to the purpose specified;

(f) "Appellate Tribunal" means the Real Estate Appellate Tribunal established under section 43;

(g) "appropriate Government" means in respect of matters relating to,—

(i) the Union territory without Legislature, the Central Government;

(ii) the Union territory of Puducherry, the Union territory Government;

(iii) the Union territory of Delhi, the Central Ministry of Urban Development;

(iv) the State, the State Government;

(h) "architect" means a person registered as an architect under the provisions of the Architects Act, 1972;

20 of 1972.

(i) "Authority" means the Real Estate Regulatory Authority established under sub-section (1) of section 20;

(j) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or for the purpose of any business, occupation, profession or trade, or for any other related purposes;

(k) "carpet area" means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.

*Explanation.*— For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be,



which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee;

(l) "Chairperson" means the Chairperson of the Real Estate Regulatory Authority appointed under section 21;

(m) "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan;

(n) "common areas" mean—

(i) the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase the entire land for that phase;

(ii) the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;

(iii) the common basements, terraces, parks, play areas, open parking areas and common storage spaces;

(iv) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;

(v) installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;

(vi) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;

(vii) all community and commercial facilities as provided in the real estate project;

(viii) all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use;

(o) "company" means a company incorporated and registered under the Companies Act, 2013 and includes,—

(i) a corporation established by or under any Central Act or State Act;

(ii) a development authority or any public authority established by the Government in this behalf under any law for the time being in force;

(p) "competent authority" means the local authority or any authority created or established under any law for the time being in force by the appropriate Government which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;

(q) "completion certificate" means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been developed according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws;

(r) "day" means the working day, in the concerned State or Union territory, as the case may be, notified by the appropriate Government from time to time;

(s) "development" with its grammatical variations and cognate expressions, means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the making of any material change in any immovable property or land and includes re-development;

(t) "development works" means the external development works and internal development works on immovable property;

(u) "engineer" means a person who possesses a bachelor's degree or equivalent from an institution recognised by the All India Council of Technical Education or any University or any institution recognised under a law or is registered as an engineer under any law for the time being in force;

(v) "estimated cost of real estate project" means the total cost involved in developing the real estate project and includes the land cost, taxes, cess development and other charges;

(w) "external development works" includes roads and road systems landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws;

(x) "family" includes husband, wife, minor son and unmarried daughter wholly dependent on a person;

(y) "garage" means a place within a project having a roof and walls on three sides for parking any vehicle, but does not include an unenclosed or uncovered parking space such as open parking areas;

(z) "immovable property" includes land, buildings, rights of ways, lights or any other benefit arising out of land and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, standing crops or grass;

(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

*Explanation.*—For the purpose of this clause—

(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

(zb) "internal development works" means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal, water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as educational health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;

(zc) "local authority" means the Municipal Corporation or Municipality or Panchayats or any other Local Body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;



(zd) "Member" means the member of the Real Estate Regulatory Authority appointed under section 21 and includes the Chairperson;

(ze) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(zf) "occupancy certificate" means the occupancy certificate, or such other certificate by whatever name called, issued by the competent authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity;

(zg) "Person" includes,—

(i) an individual;

(ii) a Hindu undivided family;

(iii) a company;

(iv) a firm under the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008, as the case may be;

(v) a competent authority;

(vi) an association of persons or a body of individuals whether incorporated or not;

(vii) a co-operative society registered under any law relating to co-operative societies;

(viii) any such other entity as the appropriate Government may, by notification, specify in this behalf;

(zh) "planning area" means a planning area or a development area or a local planning area or a regional development plan area, by whatever name called, or any other area specified as such by the appropriate Government or any competent authority and includes any area designated by the appropriate Government or the competent authority to be a planning area for future planned development, under the law relating to Town and Country Planning for the time being in force and as revised from time to time;

(zi) "prescribed" means prescribed by rules made under this Act;

(zj) "project" means the real estate project as defined in clause (zn);

(zk) "promoter" means,—

(i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or

(iii) any development authority or any other public body in respect of allottees of—

(a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or

(b) plots owned by such authority or body or placed at their disposal by the Government,

for the purpose of selling all or some of the apartments or plots; or

(iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or

(vi) such other person who constructs any building or apartment for sale to the general public.

*Explanation.*—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder;

(zl) "prospectus" means any document described or issued as a prospectus or any notice, circular, or other document offering for sale or any real estate project or inviting any person to make advances or deposits for such purposes;

(zm) "real estate agent" means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called;

(zn) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

(zo) "regulations" means the regulations made by the Authority under this Act;

(zp) "rule" means the rules made under this Act by the appropriate Government;

(zq) "sanctioned plan" means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which are approved by the competent authority prior to start of a real estate project;

(zr) words and expressions used herein but not defined in this Act and defined in any law for the time being in force or in the municipal laws or such other relevant laws of the appropriate Government shall have the same meanings respectively assigned to them in those laws.



## CHAPTER II

## REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS

3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Prior registration of real estate project with Real Estate Regulatory Authority.

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

*Explanation.*—For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

4. (1) Every promoter shall make an application to the Authority for registration of the real estate project in such form, manner, within such time and accompanied by such fee as may be specified by the regulations made by the Authority.

Application for registration of real estate projects.

(2) The promoter shall enclose the following documents along with the application referred to in sub-section (1), namely:—

(a) a brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies, competent authority), and the particulars of registration, and the names and photographs of the promoter;

(b) a brief detail of the projects launched by him, in the past five years, whether already completed or being developed, as the case may be, including the current status of the said projects, any delay in its completion, details of cases pending, details of type of land and payments pending;

(c) an authenticated copy of the approvals and commencement certificate from the competent authority obtained in accordance with the laws as may be applicable for the real estate project mentioned in the application, and where the project is proposed to be developed in phases, an authenticated copy of the approvals and commencement certificate from the competent authority for each of such phases;

(d) the sanctioned plan, layout plan and specifications of the proposed project or the phase thereof, and the whole project as sanctioned by the competent authority;

(e) the plan of development works to be executed in the proposed project and the proposed facilities to be provided thereof including fire fighting facilities, drinking water facilities, emergency evacuation services, use of renewable energy;

(f) the location details of the project, with clear demarcation of land dedicated for the project along with its boundaries including the latitude and longitude of the end points of the project;

(g) proforma of the allotment letter, agreement for sale, and the conveyance deed proposed to be signed with the allottees;

(h) the number, type and the carpet area of apartments for sale in the project along with the area of the exclusive balcony or verandah areas and the exclusive open terrace areas apartment with the apartment, if any;

(i) the number and areas of garage for sale in the project;

(j) the names and addresses of his real estate agents, if any, for the proposed project;

(k) the names and addresses of the contractors, architect, structural engineer, if any and other persons concerned with the development of the proposed project;

(l) a declaration, supported by an affidavit, which shall be signed by the promoter or any person authorised by the promoter, stating:--

(A) that he has a legal title to the land on which the development is proposed along with legally valid documents with authentication of such title, if such land is owned by another person;

(B) that the land is free from all encumbrances, or as the case may be details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details;

(C) the time period within which he undertakes to complete the project or phase thereof, as the case may be;

(D) that seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:

Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such



chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

*Explanation.*— For the purpose of this clause, the term "schedule bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

2 of 1934.

(E) that he shall take all the pending approvals on time, from the competent authorities;

(F) that he has furnished such other documents as may be prescribed by the rules or regulations made under this Act; and

(m) such other information and documents as may be prescribed.

(3) The Authority shall operationalise a web based online system for submitting applications for registration of projects within a period of one year from the date of its establishment.

5. (1) On receipt of the application under sub-section (1) of section 4, the Authority shall within a period of thirty days.

Grant of registration.

(a) grant registration subject to the provisions of this Act and the rules and regulations made thereunder, and provide a registration number, including a Login Id and password to the applicant for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project; or

(b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of this Act or the rules or regulations made thereunder;

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(2) If the Authority fails to grant the registration or reject the application, as the case may be, as provided under sub-section (1), the project shall be deemed to have been registered, and the Authority shall within a period of seven days of the expiry of the said period of thirty days specified under sub-section (1), provide a registration number and a Login Id and password to the promoter for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project.

(3) The registration granted under this section shall be valid for a period declared by the promoter under sub-clause (C) of clause (1) of sub-section (2) of section 4 for completion of the project or phase thereof, as the case may be.

6. The registration granted under section 5 may be extended by the Authority on an application made by the promoter due to *force majeure* in such form and on payment of such fee as may be specified by regulations made by the Authority:

Extension of registration.

Provided that the Authority may in reasonable circumstances, without default on the part of the promoter, based on the facts of each case, and for reasons to be recorded in writing, extend the registration granted to a project for such time as it considers necessary, which shall, in aggregate, not exceed a period of one year:

Provided further that no application for extension of registration shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

*Explanation.*— For the purpose of this section, the expression "*force majeure*" shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project.

Revocation  
of  
registration.

7. (1) The Authority may, on receipt of a complaint or *suo motu* in this behalf or on the recommendation of the competent authority, revoke the registration granted under section 5, after being satisfied that—

(a) the promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder;

(b) the promoter violates any of the terms or conditions of the approval given by the competent authority;

(c) the promoter is involved in any kind of unfair practice or irregularities.

*Explanation.*—For the purposes of this clause, the term "unfair practice means" a practice which, for the purpose of promoting the sale or development of any real estate project adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:—

(A) the practice of making any statement, whether in writing or by visible representation which,—

(i) falsely represents that the services are of a particular standard or grade;

(ii) represents that the promoter has approval or affiliation which such promoter does not have;

(iii) makes a false or misleading representation concerning the services;

(B) the promoter permits the publication of any advertisement or prospectus whether in any newspaper or otherwise of services that are not intended to be offered;

(d) the promoter indulges in any fraudulent practices.

(2) The registration granted to the promoter under section 5 shall not be revoked unless the Authority has given to the promoter not less than thirty days notice, in writing, stating the grounds on which it is proposed to revoke the registration, and has considered any cause shown by the promoter within the period of that notice against the proposed revocation.

(3) The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter.

(4) The Authority, upon the revocation of the registration,—

(a) shall debar the promoter from accessing its website in relation to that project and specify his name in the list of defaulters and display his photograph on its website and also inform the other Real Estate Regulatory Authority in other States and Union territories about such revocation or registration;

(b) shall facilitate the remaining development works to be carried out in accordance with the provisions of section 8;

(c) shall direct the bank holding the project back account, specified under sub-clause (D) of clause (1) of sub-section (2) of section 4, to freeze the account, and thereafter take such further necessary actions, including consequent de-freezing of the said account, towards facilitating the remaining development works in accordance with the provisions of section 8;

(d) may, to protect the interest of allottees or in the public interest, issue such directions as it may deem necessary.



8. Upon lapse of the registration or on revocation of the registration under this Act, the Authority, may consult the appropriate Government to take such action as it may deem fit including the carrying out of the remaining development works by competent authority or by the association of allottees or in any other manner, as may be determined by the Authority:

Obligation of Authority consequent upon lapse of or on revocation of registration.

Provided that no direction, decision or order of the Authority under this section shall take effect until the expiry of the period of appeal provided under the provisions of this Act:

Provided further that in case of revocation of registration of a project under this Act, the association of allottees shall have the first right of refusal for carrying out of the remaining development works.

9. (1) No real estate agent shall facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being the part of the real estate project registered under section 3, being sold by the promoter in any planning area, without obtaining registration under this section.

Registration of real estate agents.

(2) Every real estate agent shall make an application to the Authority for registration in such form, manner, within such time and accompanied by such fee and documents as may be prescribed.

(3) The Authority shall, within such period, in such manner and upon satisfying itself of the fulfillment of such conditions, as may be prescribed—

(a) grant a single registration to the real estate agent for the entire State of Union territory, as the case may be;

(b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of the Act or the rules or regulations made thereunder:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(4) Whereon the completion of the period specified under sub-section (3), if the applicant does not receive any communication about the deficiencies in his application or the rejection of his application, he shall be deemed to have been registered.

(5) Every real estate agent who is registered as per the provisions of this Act or the rules and regulations made thereunder, shall be granted a registration number by the Authority, which shall be quoted by the real estate agent in every sale facilitated by him under this Act.

(6) Every registration shall be valid for such period as may be prescribed, and shall be renewable for a period in such manner and on payment of such fee as may be prescribed.

(7) Where any real estate agent who has been granted registration under this Act commits breach of any of the conditions thereof or any other terms and conditions specified under this Act or any rules or regulations made thereunder, or where the Authority is satisfied that such registration has been secured by the real estate agent through misrepresentation or fraud, the Authority may, without prejudice to any other provisions under this Act, revoke the registration or suspend the same for such period as it thinks fit:

Provided that no such revocation or suspension shall be made by the Authority unless an opportunity of being heard has been given to the real estate agent.

10. Every real estate agent registered under section 9 shall—

(a) not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority;

Functions of real estate agents.

(b) maintain and preserve such books of account, records and documents as may prescribed;

(c) not involve himself in any unfair trade practices, namely:—

(i) the practice of making any statement, whether orally or in writing or by visible representation which—

(A) falsely represents that the services are of a particular standard or grade;

(B) represents that the promoter or himself has approval or affiliation which such promoter or himself does not have;

(C) makes a false or misleading representation concerning the services;

(ii) permitting the publication of any advertisement whether in any newspaper or otherwise of services that are not intended to be offered.

(d) facilitate the possession of all the information and documents, as the allottee, is entitled to, at the time of booking of any plot, apartment or building, as the case may be;

(e) discharge such other functions as may be prescribed.

### CHAPTER III

#### FUNCTIONS AND DUTIES OF PROMOTER

Functions and  
duties of  
promoter.

18. (1) The promoter shall, upon receiving his Login Id and password under clause (a) of sub-section (1) or under sub-section (2) of section 5, as the case may be, create his web page on the website of the Authority and enter all details of the proposed project as provided under sub-section (2) of section 4, in all the fields as provided, for public viewing, including—

(a) details of the registration granted by the Authority;

(b) quarterly up-to-date the list of number and types of apartments or plots, as the case may be, booked;

(c) quarterly up-to-date the list of number of garages booked;

(d) quarterly up-to-date the list of approvals taken and the approvals which are pending subsequent to commencement certificate;

(e) quarterly up-to-date status of the project; and

(f) such other information and documents as may be specified by the regulations made by the Authority.

(2) The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto.

(3) The promoter at the time of the booking and issue of allotment letter shall be responsible to make available to the allottee, the following information, namely:—

(a) Sanctioned Plans, layout plans, along with specifications, approved by the competent authority, by display at the site or such other place as may be specified by the regulations made by the Authority;

(b) the stage wise time schedule of completion of the project, including the provisions for civic infrastructure like water, sanitation and electricity.



(4) The promoter shall—

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.

(b) be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be;

(c) be responsible to obtain the lease certificate, where the real estate project is developed on a leasehold land, specifying the period of lease, and certifying that all dues and charges in regard to the leasehold land has been paid, and to make the lease certificate available to the association of allottees;

(d) be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees;

(e) enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable:

Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project;

(f) execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act;

(g) pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoing (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project):

Provided that where any promoter fails to pay all or any of the outgoings collected by him from the allottees or any liability, mortgage loan and interest thereon before transferring the real estate project to such allottees, or the association of the allottees, as the case may be, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefor by such authority or person;

(h) after he executes an agreement for sale for any apartment, plot or building, as the case may be, not mortgage or create a charge on such apartment, plot or building, as the case may be, and if any such mortgage or charge is made or created then



notwithstanding anything contained in any other law for the time being in force, it shall not affect the right and interest of the allottee who has taken or agreed to take such apartment, plot or building, as the case may be;

(5) The promoter may cancel the allotment only in terms of the agreement for sale:

Provided that the allottee may approach the Authority for relief, if he is aggrieved by such cancellation and such cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause.

(6) The promoter shall prepare and maintain all such other details as may be specified, from time to time, by regulations made by the Authority.

Obligations of promoter regarding veracity of the advertisement or prospectus.

12. Where any person makes an advance or a deposit on the basis of the information contained in the notice advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be, and sustains any loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the promoter in the manner as provided under this Act:

Provided that if the person affected by such incorrect, false statement contained in the notice, advertisement or prospectus, or the model apartment, plot or buildings as the case may be, intends to withdraw from the proposed project, he shall be returned his entire investment along with interest at such rate as may be prescribed and the compensation in the manner provided under this Act.

No deposit or advance to be taken by promoter without first entering into agreement for sale.

13. (1) A promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force.

(2) The agreement for sale referred to in sub-section (1) shall be in such form as may be prescribed and shall specify the particulars of development of the project including the construction of building and apartments, along with specifications and internal development works and external development works, the dates and the manner by which payments towards the cost of the apartment, plot or building, as the case may be, are to be made by the allottees and the date on which the possession of the apartment, plot or building is to be handed over, the rates of interest payable by the promoter to the allottee and the allottee to the promoter in case of default, and such other particulars, as may be prescribed.

Adherence to sanctioned plans and project specifications by the promoter.

14. (1) The proposed project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities.

(2) Notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by the competent authority, are disclosed or furnished to the person who agree to take one or more of the said apartment, plot or building, as the case may be, the promoter shall not make—

(i) any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, without the previous consent of that person:

Provided that the promoter may make such minor additions or alterations as may be required by the allottee, or such minor changes or alterations as may be necessary due to architectural and structural reasons duly recommended and verified by an authorised Architect or Engineer after proper declaration and intimation to the allottee.



*Explanation.*—For the purpose of this clause, "minor additions or alterations" excludes structural change including an addition to the area or change in height, or the removal of part of a building or any change to the structure, such as the construction or removal or cutting into of any wall or a part of a wall, partition, column, beam, joist, floor including a mezzanine floor or other support, or a change to or closing of any required means of access ingress or egress or a change to the fixtures or equipment, etc.

(ii) any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least two-thirds of the allottees, other than the promoter, who have agreed to take apartments in such building.

*Explanation.*—For the purpose of this clause, the allottees, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals etc. by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(3) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.

15. (1) The promoter shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior written consent from two-third allottees, except the promoter, and without the prior written approval of the Authority:

Obligations of promoter in case of transfer of a real estate project to a third party.

Provided that such transfer or assignment shall not affect the allotment or sale of the apartments, plots or buildings as the case may be, in the real estate project made by the erstwhile promoter.

*Explanation.*—For the purpose of this sub-section, the allottee, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(2) On the transfer or assignment being permitted by the allottees and the Authority under sub-section (1), the intending promoter shall be required to independently comply with all the pending obligations under the provisions of this Act or the rules and regulations made thereunder, and the pending obligations as per the agreement for sale entered into by the erstwhile promoter with the allottees:

Provided that any transfer or assignment permitted under provisions of this section shall not result in extension of time to the intending promoter to complete the real estate project and he shall be required to comply with all the pending obligations of the erstwhile promoter, and in case of default, such intending promoter shall be liable to the consequences of breach or delay, as the case may be, as provided under this Act or the rules and regulations made thereunder.

16. (1) The promoter shall obtain all such insurances as may be notified by the appropriate Government, including but not limited to insurance in respect of—

Obligations of promoter regarding insurance of real estate project.

- (i) title of the land and building as a part of the real estate project; and
- (ii) construction of the real estate project.



(2) The promoter shall be liable to pay the premium and charges in respect of the insurance specified in sub-section (1) and shall pay the same before transferring the insurance to the association of the allottees.

(3) The insurance as specified under sub-section (1) shall stand transferred to the benefit of the allottee or the association of allottees, as the case may be, at the time of promoter entering into an agreement for sale with the allottee.

(4) On formation of the association of the allottees, all documents relating to the insurance specified under sub-section (1) shall be handed over to the association of the allottees.

Transfer of  
title.

17. (1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment or building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.

(2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to hand-over the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws:

Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the occupancy certificate.

Return of  
amount and  
compensation.

18. (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,—

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing-over of the possession, at such rate as may be prescribed.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this sub-section shall not be barred by limitation provided under any law for the time being in force.



(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

#### CHAPTER IV

##### RIGHTS AND DUTIES OF ALLOTTEES

19. (1) The allottee shall be entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent authority and such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter.

Rights and  
duties of  
allottees.

(2) The allottee shall be entitled to know stage-wise time schedule of completion of the project, including the provisions for water, sanitation, electricity and other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale.

(3) The allottee shall be entitled to claim the possession of apartment, plot or building, as the case may be, and the association of allottees shall be entitled to claim the possession of the common areas, as per the declaration given by the promoter under sub-clause (C) of clause (1) of sub-section (2) of section 4.

(4) The allottee shall be entitled to claim the refund of amount paid along with interest at such rate as may be prescribed and compensation in the manner as provided under this Act, from the promoter, if the promoter fails to comply or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with the terms of agreement for sale or due to discontinuance of his business as a developer on account of suspension or revocation of his registration under the provisions of this Act or the rules or regulations made thereunder.

(5) The allottee shall be entitled to have the necessary documents and plans, including that of common areas, after handing over the physical possession of the apartment or plot or building as the case may be, by the promoter.

(6) Every allottee, who has entered into an agreement or sale to take an apartment, plot or building as the case may be, under section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any.

(7) The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under sub-section (6).

(8) The obligations of the allottee under sub-section (6) and the liability towards interest under sub-section (7) may be reduced when mutually agreed to between the promoter and such allottee.

(9) Every allottee of the apartment, plot or building as the case may be, shall participate towards the formation of an association or society or cooperative society of the allottees, or a federation of the same.

(10) Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or buildings, as the case may be.

(11) Every allottee shall participate towards registration of the conveyance deed of the apartment, plot or building, as the case may be, as provided under sub-section (1) of section 17 of this Act.



## CHAPTER V

## THE REAL ESTATE REGULATORY AUTHORITY

Establishment  
and  
incorporation  
of Real  
Estate  
Regulatory  
Authority.

20. (1) The appropriate Government shall, within a period of one year from the date of coming into force of this Act, by notification, establish an Authority to be known as the Real Estate Regulatory Authority to exercise the powers conferred on it and to perform the functions assigned to it under this Act:

Provided that the appropriate Government of two or more States or Union territories may, if it deems fit, establish one single Authority:

Provided further that the appropriate Government may, if it deems fit, establish more than one Authority in a State or Union territory, as the case may be:

Provided also that until the establishment of a Regulatory Authority under this section, the appropriate Government shall, by order, designate any Regulatory Authority or any officer preferably the Secretary of the department dealing with Housing, as the Regulatory Authority for the purposes under this Act:

Provided also that after the establishment of the Regulatory Authority, all applications, complaints or cases pending with the Regulatory Authority designated, shall stand transferred to the Regulatory Authority so established and shall be heard from the stage such applications, complaints or cases are transferred.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with the power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

Composition  
of Authority.

21. The Authority shall consist of a Chairperson and not less than two whole time Members to be appointed by the appropriate Government.

Qualifications  
of  
Chairperson  
and Members  
of Authority.

22. The Chairperson and other Members of the Authority shall be appointed by the appropriate Government on the recommendations of a Selection Committee consisting of the Chief Justice of the High Court or his nominee the Secretary of the Department dealing with Housing and the Law Secretary in such manner as may be prescribed, from amongst persons having adequate knowledge of and professional experience of at-least twenty years in case of the Chairperson and fifteen years in the case of the Members in urban development, housing, real estate development, infrastructure, economics, technical experts from relevant fields, planning, law, commerce, accountancy, industry, management, social service, public affairs or administration:

Provided that a person who is, or has been, in the service of the State Government shall not be appointed as a Chairperson unless such person has held the post of Additional Secretary to the Central Government or any equivalent post in the Central Government or State Government:

Provided further that a person who is, or has been, in the service of the State Government shall not be appointed as a member unless such person has held the post of Secretary to the State Government or any equivalent post in the State Government or Central Government.

Term of  
office of  
Chairperson  
and  
Members.

23. (1) The Chairperson and Members shall hold office for a term not exceeding five years from the date on which they enter upon their office, or until they attain the age of sixty-five years, whichever is earlier and shall not be eligible for re-appointment.

(2) Before appointing any person as a Chairperson or Member, the appropriate Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Member.

Salary and  
allowances  
payable to  
Chairperson  
and Members.

24. (1) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed and shall not be varied to their disadvantage during their tenure.



(2) Notwithstanding anything contained in sub-sections (1) and (2) of section 23, the Chairperson or a Member, as the case may be, may,—

(a) relinquish his office by giving in writing, to the appropriate Government, notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 26 of this Act.

(3) Any vacancy caused to the office of the Chairperson or any other Member shall be filled-up within a period of three months from the date on which such vacancy occurs.

25. The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such administrative powers and functions of the Authority as may be prescribed.

Administrative powers of Chairperson.

26. (1) The appropriate Government may, in accordance with the procedure notified, remove from office the Chairperson or other Members, if the Chairperson or such other Member, as the case may be,—

Removal of Chairperson and Members from office in certain circumstances

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence, involving moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Member shall not be removed from his office on the ground specified under clause (d) or clause (e) of sub-section (1) except by an order made by the appropriate Government after an inquiry made by a Judge of the High Court in which such Chairperson or Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

27. (1) The Chairperson or a Member, ceasing to hold office as such, shall not—

(a) accept any employment in, or connected with, the management or administration of, any person or organisation which has been associated with any work under this Act, from the date on which he ceases to hold office:

Provided that nothing contained in this clause shall apply to any employment under the appropriate Government or a local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined under clause (45) of section 2 of the Companies Act, 2013, which is not a promoter as per the provisions of this Act;

Restrictions on Chairperson or Members on employment after cessation of office.

(b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public;

(d) enter into a contract of service with, or accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.

(2) The Chairperson and Members shall not communicate or reveal to any person any matter which has been brought under his consideration or known to him while acting as such.

28. (1) The appropriate Government may, in consultation with the Authority appoint such officers and employees as it considers necessary for the efficient discharge of their functions under this Act who would discharge their functions under the general superintendence of the Chairperson.

Officers and other employees of Authority.



(2) The salary and allowances payable to, and the other terms and conditions of service of, the officers and of the employees of the Authority appointed under sub-section (1) shall be such as may be prescribed.

Meetings of  
Authority.

29. (1) The Authority shall meet at such places and times, and shall follow such rules of procedure in regard to the transaction of business at its meetings, (including quorum at such meetings), as may be specified by the regulations made by the Authority.

(2) If the Chairperson for any reason, is unable to attend a meeting of the Authority, any other Member chosen by the Members present amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

(4) The questions which come up before the Authority shall be dealt with as expeditiously as possible and the Authority shall dispose of the same within a period of sixty days from the date of receipt of the application:

Provided that where any such application could not be disposed of within the said period of sixty days, the Authority shall record its reasons in writing for not disposing of the application within that period.

Vacancies,  
etc., not to  
invalidate  
proceeding of  
Authority.

30. No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Filing of  
complaints  
with the  
Authority or  
the  
adjudicating  
officer.

31. (1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be.

*Explanation.*—For the purpose of this sub-section "person" shall include, the association of allottees or any voluntary consumer association registered under any law for the time being in force.

(2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be specified by regulations.

Functions of  
Authority for  
promotion of  
real estate  
sector.

32. The Authority shall in order to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector make recommendations to the appropriate Government of the competent authority, as the case may be, on,—

(a) protection of interest of the allottees, promoter and real estate agent;

(b) creation of a single window system for ensuring time bound project approvals and clearances for timely completion of the project;

(c) creation of a transparent and robust grievance redressal mechanism against acts of omission and commission of competent authorities and their officials;

(d) measures to encourage investment in the real estate sector including measures to increase financial assistance to affordable housing segment;

(e) measures to encourage construction of environmentally sustainable and affordable housing, promoting standardisation and use of appropriate construction materials, fixtures, fittings and construction techniques;

(f) measures to encourage grading of projects on various parameters of development including grading of promoters;



(g) measures to facilitate amicable conciliation of disputes between the promoters and the allottees through dispute settlement forums set up by the consumer or promoter associations;

(h) measures to facilitate digitization of land records and system towards conclusive property titles with title guarantee;

(i) to render advice to the appropriate Government in matters relating to the development of real estate sector;

(j) any other issue that the Authority may think necessary for the promotion of the real estate sector.

33. (1) The appropriate Government may, while formulating a policy on real estate sector (including review of laws related to real estate sector) or any other matter, make a reference to the Authority for its opinion on possible effect, of such policy or law on real estate sector and on the receipt of such a reference, the Authority shall within a period of sixty days of making such reference, give its opinion to the appropriate Government which may thereafter take further action as it deems fit.

Advocacy and awareness measures.

(2) The opinion given by the Authority under sub-section (1) shall not be binding upon the appropriate Government in formulating such policy or laws.

(3) The Authority shall take suitable measures for the promotion of advocacy, creating awareness and imparting training about laws relating to real estate sector and policies.

34. The functions of the Authority shall include—

Functions of Authority.

(a) to register and regulate real estate projects and real estate agents registered under this Act;

(b) to publish and maintain a website of records, for public viewing, of all real estate projects for which registration has been given, with such details as may be prescribed, including information provided in the application for which registration has been granted;

(c) to maintain a database, on its website, for public viewing, and enter the names and photographs of promoters as defaulters including the project details, registration for which has been revoked or have been penalised under this Act, with reasons therefor, for access to the general public;

(d) to maintain a database, on its website, for public viewing, and enter the names and photographs of real estate agents who have applied and registered under this Act, with such details as may be prescribed, including those whose registration has been rejected or revoked;

(e) to fix through regulations for each areas under its jurisdiction the standard fees to be levied on the allottees or the promoter or the real estate agent, as the case may be;

(f) to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder;

(g) to ensure compliance of its regulations or orders or directions made in exercise of its powers under this Act;

(h) to perform such other functions as may be entrusted to the Authority by the appropriate Government as may be necessary to carry out the provisions of this Act.

35. (1) Where the Authority considers it expedient to do so, on a complaint or *suo motu*, relating to this Act or the rules of regulations made thereunder, it may, by order in writing and recording reasons therefor call upon any promoter or allottee or real estate agent, as the case may be, at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require and appoint one or more persons to make an inquiry in relation to the affairs of any promoter or allottee or the real estate agent, as the case may be.

Powers of Authority to call for information, conduct investigations.



(2) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under sub-section (1), the Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:— 5 of 1908.

- (i) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Authority;
- (ii) summoning and enforcing the attendance of persons and examining them on oath;
- (iii) issuing commissions for the examination of witnesses or documents;
- (iv) any other matter which may be prescribed.

Power to  
issue interim  
orders.

36. Where during an inquiry, the Authority is satisfied that an act in contravention of this Act, or the rules and regulations made thereunder, has been committed and continues to be committed or that such act is about to be committed, the Authority may, by order, restrain any promoter, allottee or real estate agent from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where the Authority deems it necessary.

Powers of  
Authority to  
issue  
directions.

37. The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned.

Powers of  
Authority.

38. (1) The Authority shall have powers to impose penalty or interest, in regard to any contravention of obligations cast upon the promoters, the allottees and the real estate agents, under this Act or the rules and the regulations made thereunder.

(2) The Authority shall be guided by the principles of natural justice and, subject to the other provisions of this Act and the rules made thereunder, the Authority shall have powers to regulate its own procedure.

(3) Where an issue is raised relating to agreement, action, omission, practice or procedure that—

- (a) has an appreciable prevention, restriction or distortion of competition in connection with the development of a real estate project; or
- (b) has effect of market power of monopoly situation being abused for affecting interest of allottees adversely,

then the Authority, may *suo motu*, make reference in respect of such issue to the Competition Commission of India.

Rectification  
of orders.

39. The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act.

Recovery of  
interest or  
penalty or  
compensation  
and  
enforcement  
of order, etc.

40. (1) If a promoter or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the Regulatory Authority or the Appellate Authority, as the case may be, under this Act or the rules and regulations made thereunder, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue.

(2) If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed.



## CHAPTER VI

## CENTRAL ADVISORY COUNCIL

41. (1) The Central Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Central Advisory Council.

Establishment  
of Central  
Advisory  
Council.

(2) The Minister to the Government of India in charge of the Ministry of the Central Government dealing with Housing shall be the *ex officio* Chairperson of the Central Advisory Council.

(3) The Central Advisory Council shall consist of representatives of the Ministry of Finance, Ministry of Industry and Commerce, Ministry of Urban Development, Ministry of Consumer Affairs, Ministry of Corporate Affairs, Ministry of Law and Justice, Niti Aayog, National Housing Bank, Housing and Urban Development Corporation, five representatives of State Governments to be selected by rotation, five representatives of the Real Estate Regulatory Authorities to be selected by rotation, and any other Central Government department as notified.

(4) The Central Advisory Council shall also consist of not more than ten members to represent the interests of real estate industry, consumers, real estate agents, construction labourers, non-governmental organisations and academic and research bodies in the real estate sector.

42. (1) The functions of the Central Advisory Council shall be to advise and recommend the Central Government,—

Functions of  
Central  
Advisory  
Council.

- (a) on all matters concerning the implementation of this Act;
- (b) on major questions of policy;
- (c) towards protection of consumer interest;
- (d) to foster the growth and development of the real estate sector;
- (e) on any other matter as may be assigned to it by the Central Government.

(2) The Central Government may specify the rules to give effect to the recommendations of the Central Advisory Council on matters as provided under sub-section (1).

## CHAPTER VII

## THE REAL ESTATE APPELLATE TRIBUNAL

43. (1) The appropriate Government shall, within a period of one year from the date of coming into force of this Act, by notification, establish an Appellate Tribunal to be known as the — (name of the State/Union territory) Real Estate Appellate Tribunal.

Establishment  
of Real  
Estate  
Appellate  
Tribunal.

(2) The appropriate Government may, if it deems necessary, establish one or more benches of the Appellate Tribunal, for various jurisdictions, in the State or Union territory, as the case may be.

(3) Every bench of the Appellate Tribunal shall consist of at least one Judicial Member and one Administrative or Technical Member.

(4) The appropriate Government of two or more States or Union territories may, if it deems fit, establish one single Appellate Tribunal:

Provided that, until the establishment of an Appellate Tribunal under this section, the appropriate Government shall designate, by order, any Appellate Tribunal functioning under any law for the time being in force, to be the Appellate Tribunal to hear appeals under the Act:

Provided further that after the Appellate Tribunal under this section is established, all matters pending with the Appellate Tribunal designated to hear appeals, shall stand transferred

to the Appellate Tribunal so established and shall be heard from the stage such appeal is transferred.

(5) Any person aggrieved by any direction or decision or order made by the Authority or by an adjudicating officer under this Act may prefer an appeal before the Appellate Tribunal having jurisdiction over the matter:

Provided that where a promoter files an appeal with the Appellate Tribunal, it shall not be entertained, without the promoter first having deposited with the Appellate Tribunal at least thirty per cent. of the penalty, or such higher percentage as may be determined by the Appellate Tribunal, or the total amount to be paid to the allottee including interest and compensation imposed on him, if any, or with both, as the case may be, before the said appeal is heard.

*Explanation.*—For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

Application  
for  
settlement of  
disputes and  
appeals to  
Appellate  
Tribunal.

44. (1) The appropriate Government or the competent authority or any person aggrieved by any direction or order or decision of the Authority or the adjudicating officer may prefer an appeal to the Appellate Tribunal.

(2) Every appeal made under sub-section (1) shall be preferred within a period of sixty days from the date on which a copy of the direction or order or decision made by the Authority or the adjudicating officer is received by the appropriate Government or the competent authority or the aggrieved person and it shall be in such form and accompanied by such fee, as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of sixty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may after giving the parties an opportunity of being heard, pass such orders, including interim orders, as it thinks fit.

(4) The Appellate Tribunal shall send a copy of every order made by it to the parties and to the Authority or the adjudicating officer, as the case may be.

(5) The appeal preferred under sub-section (1), shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal within a period of sixty days from the date of receipt of appeal:

Provided that where any such appeal could not be disposed of within the said period of sixty days, the Appellate Tribunal shall record its reasons in writing for not disposing of the appeal within that period.

(6) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness of any order or decision of the Authority or the adjudicating officer, on its own motion or otherwise, call for the records relevant to deposing of such appeal and make such orders as it thinks fit.

Composition  
of Appellate  
Tribunal.

45. The Appellate Tribunal shall consist of a Chairperson and not less than two whole time Members of which one shall be a Judicial member and other shall be a Technical or Administrative Member, to be appointed by the appropriate Government.

*Explanation.*—For the purposes of this Chapter,—

(i) "Judicial Member" means a Member of the Appellate Tribunal appointed as such under clause (b) of sub-section (1) of section 46;



(ii) "Technical or Administrative Member" means a Member of the Appellate Tribunal appointed as such under clause (c) of sub-section (1) of section 46.

46. (1) A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he,—

(a) in the case of Chairperson, is or has been a Judge of a High Court; and

(b) in the case of a Judicial Member he has held a judicial office in the territory of India for at least fifteen years or has been a member of the Indian Legal Service and has held the post of Additional Secretary of that service or any equivalent post, or has been an advocate for at least twenty years with experience in dealing with real estate matters; and

(c) in the case of a Technical or Administrative Member, he is a person who is well-versed in the field of urban development, housing, real estate development, infrastructure, economics, planning, law, commerce, accountancy, industry, management, public affairs or administration and possesses experience of at least twenty years in the field or who has held the post in the Central Government, or a State Government equivalent to the post of Additional Secretary to the Government of India or an equivalent post in the Central Government or an equivalent post in the State Government.

Qualification  
for  
appointment  
of  
Chairperson  
and  
Members.

(2) The Chairperson of the Appellate Tribunal shall be appointed by the appropriate Government in consultation with the Chief Justice of High Court or his nominee.

(3) The judicial Members and Technical or Administrative Members of the Appellate Tribunal shall be appointed by the appropriate Government on the recommendations of a Selection Committee consisting of the Chief Justice of the High Court or his nominee, the Secretary of the Department handling Housing and the Law Secretary and in such manner as may be prescribed.

47. (1) The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall hold office, as such for a term not exceeding five years from the date on which he enters upon his office, but shall not be eligible for re-appointment:

Term of  
office of  
Chairperson  
and Member

Provided that in case a person, who is or has been a Judge of a High Court, has been appointed as Chairperson of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided further that no Judicial Member or Technical or Administrative Member shall hold office after he has attained the age of sixty-five years.

(2) Before appointing any person as Chairperson or Member, the appropriate Government shall satisfy itself that the person does not have any such financial or other interest, as is likely to affect prejudicially his functions as such member.

48. (1) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed and shall not be varied to their disadvantage during their tenure.

Salary and  
allowances  
payable to  
Chairperson  
and  
Members.

(2) Notwithstanding anything contained in sub-sections (1) and (2) of section 47, the Chairperson or a Member, as the case may be, may:—

(a) relinquish his office by giving in writing to the appropriate Government a notice of not less than three months;

(b) be removed from his office in accordance with the provisions of section 49.

(3) A vacancy caused to the office of the Chairperson or any other Member, as the case may be, shall be filled-up within a period of three months from the date on which such vacancy occurs.



Removal of  
Chairperson  
and Member  
from office  
in certain  
circumstances.

49. (1) The appropriate Government may, in consultation with the Chief Justice of the High Court, remove from office of the Chairperson or any judicial Member or Technical or Administrative Member of the Appellate Tribunal, who—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence which, in the opinion of the appropriate Government involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Judicial member or Technical or Administrative Member shall not be removed from his office except by an order made by the appropriate Government after an inquiry made by the Judge of the High Court in which such Chairperson or Judicial member or Technical or Administrative Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The appropriate Government may suspend from the office of the Chairperson or Judicial member or Technical or Administrative Member in respect of whom a reference of conducting an inquiry has been made to the Judge of the High Court under sub-section (2), until the appropriate Government passes an order on receipt of the report of inquiry made by the Judge of the High Court on such reference.

(4) The appropriate Government may, by rules, regulate the procedure for inquiry referred to in sub-section (2).

Restrictions  
on  
Chairperson  
or Judicial  
Member or  
Technical or  
Administrative  
Member on  
employment  
after  
cessation of  
office.

50. (1) The Chairperson or Judicial Member or Technical or Administrative Member, ceasing to hold office as such shall not:—

(a) Accept any employment in, or connected with, the management or administration of, any person or organisation which has been associated with any work under this Act, from the date on which he ceases to hold office:

Provided that nothing contained in this clause shall apply to any employment under the appropriate Government or a local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company as defined under clause (45) of section 2 of the Companies Act, 2013, which is not a promoter as per the provisions of this Act;

18 of 2013.

(b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or Judicial Member or Technical or Administrative Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity as the Chairperson or Judicial Member or Technical or Administrative Member and being unavailable to or not being able to be made available to the public;

(d) enter into a contract of service with, or accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.

(2) The Chairperson or Judicial Member or Technical or Administrative Member shall not communicate or reveal to any person any matter which has been brought under his consideration or known to him while acting as such.



51. (1) The appropriate Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit.

Officers and other employees of Appellate Tribunal.

(2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson.

(3) The salary and allowances payable to, and the other terms and conditions of service of, the officers and employees of the Appellate Tribunal shall be such as may be prescribed.

52. If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the appropriate Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

Vacancies.

5 of 1908. 53. (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

Powers of Tribunal.

(2) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure.

1 of 1872. (3) The Appellate Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.

5 of 1908. (4) The Appellate Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examinations of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or directing it *ex parte*; and

(g) any other matter which may be prescribed.

45 of 1860. 2 of 1974. (5) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

54. The Chairperson shall have powers of general superintendence and direction in the conduct of the affairs of Appellate Tribunal and he shall, in addition to presiding over the meetings of the Appellate Tribunal exercise and discharge such administrative powers and functions of the Appellate Tribunal as may be prescribed.

Administrative powers of Chairperson of Appellate Tribunal.

55. No act or proceeding of the Appellate Tribunal shall be invalid merely by reason of—

Vacancies, etc., not to invalidate proceeding of Appellate Tribunal.

(a) any vacancy in, or any defect in the constitution of, the Appellate Tribunal, or

(b) any defect in the appointment of a person acting as a Member of the Appellate Tribunal; or

(c) Any irregularity in the procedure of the Appellate Tribunal not affecting the merits of the case.

Right to legal representation.

56. The applicant or appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal or the Regulatory Authority or the adjudicating officer, as the case may be.

*Explanation.*—For the purposes of this section,—

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 or any other law for the time being in force and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

38 of 1949.

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 or any other law for the time being in force and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

56 of 1980.

(c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 or any other law for the time being in force and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

23 of 1959.

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

Orders passed by Appellate Tribunal to be executable as a decree.

57. (1) Every order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by the court.

Appeal to High Court.

58. (1) Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the High Court, within a period of sixty days from the date of communication of the decision or order of the Appellate Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908:

5 of 1908.

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

*Explanation.*—The expression "High Court" means the High Court of a State or Union territory where the real estate project is situated.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.

## CHAPTER VIII

### OFFENCES, PENALTIES AND ADJUDICATION

Punishment for non-registration under section 3.

59. (1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project as determined by the Authority.

(2) If any promoter does not comply with the orders, decisions or directions issued under sub-section (1) or continues to violate the provisions of section 3, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further ten per cent. of the estimated cost of the real estate project, or with both.



60. If any promoter provides false information or contravenes the provisions of section 4, he shall be liable to a penalty which may extend up to five per cent. of the estimated cost of the real estate project, as determined by the Authority.

Penalty for contravention of section 4.

61. If any promoter contravenes any other provisions of this Act, other than that provided under section 3 or section 4, or the rules or regulations made thereunder, he shall be liable to a penalty which may extend up to five per cent. of the estimated cost of the real estate project as determined by the Authority.

Penalty for contravention of other provisions of this Act.

62. If any real estate agent fails to comply with or contravenes the provisions of section 9 or section 10, he shall be liable to a penalty of ten thousand rupees for every day during which such default continues, which may cumulatively extend up to five per cent. of the cost of plot, apartment or buildings, as the case may be, of the real estate project, for which the sale or purchase has been facilitated as determined by the Authority.

Penalty for non-registration and contravention under sections 9 and 10.

63. If any promoter, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent., of the estimated cost of the real estate project as determined by the Authority.

Penalty for failure to comply with orders of Authority by promoter

64. If any promoter, who fails to comply with, or contravenes any of the orders, decisions or directions of the Appellate Tribunal, he shall be punishable with imprisonment for a term which may extend up to three years or with fine for every day during which such default continues, which may cumulatively extend up to ten per cent. of the estimated cost of the real estate project, or with both.

Penalty for failure to comply with orders of Appellate Tribunal by promoter.

65. If any real estate agent, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent., of the estimated cost of plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated and as determined by the Authority.

Penalty for failure to comply with orders of Authority by real estate agent.

66. If any real estate agent, who fails to comply with, or contravenes any of the orders, decisions or directions of the Appellate Tribunal, he shall be punishable with imprisonment for a term which may extend up to one year or with fine for every day during which such default continues, which may cumulatively extend up to ten per cent. of the estimated cost of plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated, or with both.

Penalty for failure to comply with orders of Appellate Tribunal by real estate agent.

67. If any allottee, who fails to comply with, or contravenes any of the orders, decisions or directions of the Authority he shall be liable to a penalty for the period during which such default continues, which may cumulatively extend up to five per cent. of the plot, apartment or building cost, as the case may be, as determined by the Authority.

Penalty for failure to comply with orders of Authority by allottee.

68. If any allottee, who fails to comply with, or contravenes any of the orders or directions of the Appellate Tribunal, as the case may be, he shall be punishable with imprisonment for a term which may extend up to one year or with fine for every day during which such default continues, which may cumulatively extend up to ten per cent. of the plot, apartment or building cost, as the case may be, or with both.

Penalty for failure to comply with orders of Appellate Tribunal by allottee.



Offences by  
companies.

69. (1) Where an Offence under this Act has been committed by a company, every person who, at the time, the offence was committed was in charge of, or was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section, shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section,—

(a) "company" means any body corporate and includes a firm, or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

Compounding  
of offences.

70. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, if any person is punished with imprisonment under this Act, the punishment may, either before or after the institution of the prosecution, be compounded by the court on such terms and conditions and on payment of such sums as may be prescribed:

2 of 1974.

Provided that the sum prescribed shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded.

Power to  
adjudicate.

71. (1) For the purpose of adjudging compensation under sections 12, 14, 18 and section 19, the Authority shall appoint in consultation with the appropriate Government one or more judicial officer as deemed necessary, who is or has been a District Judge to be an adjudicating officer for holding an inquiry in the prescribed manner, after giving any person concerned a reasonable opportunity of being heard:

Provided that any person whose complaint in respect of matters covered under sections 12, 14, 18 and section 19 is pending before the Consumer Disputes Redressal Forum or the Consumer Disputes Redressal Commission or the National Consumer Redressal Commission, established under section 9 of the Consumer Protection Act, 1986, on or before the commencement of this Act, he may, with the permission of such Forum or Commission, as the case may be, withdraw the complaint pending before it and file an application before the adjudicating officer under this Act.

68 of 1986.

(2) The application for adjudging compensation under sub-section (1), shall be dealt with by the adjudicating officer as expeditiously as possible and dispose of the same within a period of sixty days from the date of receipt of the application:

Provided that where any such application could not be disposed of within the said period of sixty days, the adjudicating officer shall record his reasons in writing for not disposing of the application within that period.

(3) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may direct to pay such compensation or interest, as the case may be, as he thinks fit in accordance with the provisions of any of those sections.



72. While adjudging the quantum of compensation or interest, as the case may be, under section 71, the adjudicating officer shall have due regard to the following factors, namely:—

Factors to be taken into account by the adjudicating officer.

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused as a result of the default;

(c) the repetitive nature of the default;

(d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.

## CHAPTER IX

### FINANCE, ACCOUNTS, AUDITS AND REPORTS

73. The Central Government may, after due appropriation made by Parliament in this behalf, make to the Authority grants and loans of such sums of money as that Government may consider necessary.

Grants and loans by Central Government.

74. The State Government may, after due appropriation made by State Legislature by law in this behalf, make to the Authority, grants and loans of such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

Grants and loans by State Government.

75. (1) The appropriate Government shall constitute a fund to be called the 'Real Estate Regulatory Fund' and there shall be credited thereto,—

Constitution of Fund.

(a) all Government grants received by the Authority;

(b) the fees received under this Act;

(c) the interest accrued on the amounts referred to in clauses (a) to (b).

(2) The Fund shall be applied for meeting—

(a) the salaries and allowances payable to the Chairperson and other Members, the adjudicating officer and the administrative expenses including the salaries and allowances payable to be officers and other employees of the Authority and the Appellate Tribunal;

(b) the other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act.

(3) The Fund shall be administered by a committee of such Members of the Authority as may be determined by the Chairperson.

(4) The committee appointed under sub-section (3) shall spend monies out of the Fund for carrying out the objects for which the Fund has been constituted.

76. (1) All sums realised, by way of penalties, imposed by the Appellate Tribunal or the Authority, in the Union territories, shall be credited to the Consolidated Fund of India.

Crediting sums realised by way of penalties to Consolidated Fund of India or State account.

(2) All sums realised, by way of penalties, imposed by the Appellate Tribunal or the Authority, in a State, shall be credited to such account as the State Government may specify.

Budget,  
accounts and  
audit.

77. (1) The Authority shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the appropriate Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand and production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the appropriate Government by the Authority and the appropriate Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament or, as the case may be, before the State Legislature or the Union territory Legislature, where it consists of two Houses, or where such legislature consists of one House, before the House.

Annual  
report.

78. (1) The Authority shall prepare once in every year, in such form and at such time as may be prescribed by the appropriate Government,—

(a) a description of all the activities of the Authority for the previous year;

(b) the annual accounts for the previous year; and

(c) the programmes of work for the coming year.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament or, as the case may be, before the State Legislature or the Union Territory Legislature, where it consists of two Houses, or where such legislature consists of one House, before that House.

#### CHAPTER X MISCELLANEOUS

Bar of  
jurisdiction.

79. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the adjudicating officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Cognizance of  
offences.

80. (1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder save on a complaint in writing made by the Authority or by any officer of the Authority duly authorised by it for this purpose.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Delegation.

81. The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to make regulations under section 85, as it may deem necessary.



82. (1) If, at any time, the appropriate Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the appropriate Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the appropriate Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President or the Governor, as the case may be, may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the appropriate Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such; —

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the appropriate Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the appropriate Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.

(4) The appropriate Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament or, as the case may be, before the State Legislature, or the Union Territory Legislature, as the case may be, where it consists of two Houses, or where such legislature consists of one House, before that House.

83. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers and in performance of its functions under this Act, be bound by such directions on questions of policy, as the appropriate Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) If any dispute arises between the appropriate Government and the Authority as to whether a question is or is not a question of policy, the decision of the appropriate Government thereon shall be final.

Power of appropriate Government to supersede Authority.

Powers of appropriate Government to issue directions to Authority and return.

(3) The Authority shall furnish to the appropriate Government such returns or other information with respect to its activities as the appropriate Government may, from time to time, require.

Power of appropriate Government to make rules.

84. (1) The appropriate Government shall, within a period of six months of the commencement of this Act, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) information and documents for application to Authority for registration under clause (m) of sub-section (2) of section 4;

(b) the form and manner of making application and fee and documents to be accompanied with such application as under sub-section (2) of section 9;

(c) the period, manner and conditions under which the registration is to be granted under sub-section (3) of section 9;

(d) the validity of the period of registration and the manner and fee for renewal under sub-section (6) of section 9;

(e) the maintenance and preservation of books of account, records and documents under clause (b) of section 10;

(f) the discharge of other functions by the real estate agent under clause (e) of section 10;

(g) the rate of interest payable under section 12;

(h) the form and particulars of agreement for sale under sub-section (2) of section 13;

(i) the rate of interest payable under clause (b) of sub-section (1) of section 18;

(j) the rate of interest payable under sub-section (4) of section 19;

(k) the rate of interest payable under sub-section (7) of section 19;

(l) the manner of selection of Chairperson and Members of Authority under section 22;

(m) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members of the Authority under sub-section (1) of section 24;

(n) the administrative powers of the Chairpersons under section 25;

(o) the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Authority under sub-section (2) of section 28;

(p) the details to be published on the website as under clause (b) and under clause (d) of section 34;

(q) the additional functions which may be performed by the Authority under clause (iv) of sub-section (2) of section 35;

(r) the manner of recovery of interest, penalty and compensation under sub-section (1) of section 40;

(s) the manner of implementation of the order, direction or decisions of the adjudicating officer, the Authority or the Appellate Tribunal under sub-section (2) of section 40;



(t) recommendations received from the Central Advisory Council under sub-section (2) of section 42;

(u) the form and manner and fee for filling of appeal under sub-section (2) of section 44;

(v) the manner of selection of Members of the Tribunal under sub-section (3) of section 46;

(w) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members of the Appellate Tribunal under sub-section (1) of section 48;

(x) the procedure for inquiry of the charges against the Chairperson or Judicial Member of the Tribunal under sub-section (4) of section 49;

(y) the salaries and allowances payable to, and the other terms and conditions of service of, the officers and employees of the Appellate Tribunal under sub-section (3) of section 51;

(z) any other powers of the Tribunal under clause (h) of sub-section (4) of section 53;

(za) the powers of the Chairperson of the Appellate Tribunal under section 54;

(zb) the terms and conditions and the payment of such sum for compounding of the offences under section 70;

(zc) the manner of inquiry under sub-section (1) of section 71;

(zd) the form to be specified in which the Authority shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of accounts under sub-section (1) of section 77;

(ze) the form in which and time at which the Authority shall prepare an annual report under sub-section (1) of section 78;

(zf) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

85. (1) The Authority shall, within a period of three months of its establishment, by notification, make regulations, consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

Power to  
make  
regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the form and manner of making application and fee payable herewith under sub-section (1) of section 4;

(b) the form of application and the fees for extension of registration under section 6;

(c) such other information and documents required under clause (f) of sub-section (1) of section 11;

(d) display of sanctioned plans, layout plans along with specifications, approved by the competent authority, for display under clause (a) of sub-section (3) of section 11;

(e) preparation and maintenance of other details under sub-section (6) of section 11;

(f) time, places and the procedure in regard to transaction of business at the meetings of the Authority under sub-section (1) of section 29;

(g) the form, manner and fees for filing a complaint under sub-section (2) of section 31;

(h) standard fees to be levied on the promoter, the allottees or the real estate agent under clause (e) of section 34;

(i) any other matter which is required to be, or may be, specified by regulation or in respect of which provision is to be made by regulations.

Laying of  
rules.

86. (1) Every rule made by the Central Government, every regulation made by the Authority under the Union territory of Delhi and the Union territories without Legislature and every notification issued by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule of regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

(2) Every rule made by a State Government or the Union territory Government, as the case may be, every regulation made by the Authority under the State Government or the Union territory Government of Puducherry, as the case may be, and every notification issued by the State Government or the Union territory Government of Puducherry, as the case may be, under this Act, shall be laid as soon as may be, after it is made, before the State Legislature, or the Union territory Legislature, as the case may be, where it consists of two Houses, or where such legislature consists of one House, before that House.

Members,  
etc., to be  
public  
servants.

87. The Chairperson, Members and other officers and employees of the Authority, and the Appellate Tribunal and the adjudicating officer shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Application  
of other laws  
not barred.

88. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Act to have  
overriding  
effect.

89. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Protection  
of action  
taken in  
good faith.

90. No suit, prosecution or other legal proceedings shall lie against the appropriate Government or the Authority or any officer of the appropriate Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Power to  
remove  
difficulties.

91. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.



Maharashtra  
Act No. 11 of  
2014.

92. The Maharashtra Housing (Regulation and Development) Act, 2012 is hereby Repealed.

Sd/-

**Dr. G. Narayana Raju,**  
Secy. to the Government of India.

By order and in the name of the Governor of Gujar

Sd/-

**C. J. GOTH,**  
Secretary to Government.



सत्यमेव जयते

# The Gujarat Government Gazette

EXTRAORDINARY  
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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART - VI

Acts of Parliament and Ordinances promulgated by the President.

### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 23<sup>rd</sup> September, 2016.

No. RPB/237-2016/Act.17-16-E:— The following Act of Parliament is republished for general information :-

### GOVERNMENT OF INDIA

### MINISTRY OF LAW AND JUSTICE

### Legislative Department

New Delhi, the 26<sup>th</sup> March, 2016/Chaitra 6, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 25<sup>th</sup> March, 2016 is hereby published for general information :-

### THE NATIONAL WATERWAYS ACT, 2016

[ACT No. 17 OF 2016]

[25<sup>th</sup> March, 2016]

AN

ACT

*to make provisions for existing national waterways and to provide for the declaration of certain inland waterways to be national waterways and also to provide for the regulation and development of the said waterways for the purpose of shipping and navigation and for matters connected therewith or incidental thereto.*

BE in enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows :-

1. (1) This Act may be called the National Waterways, Act, 2016

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, notification in the Official Gazette, appoint.



Existing national waterways and declaration of certain inland waterways as national waterways.

2. (1) The existing national waterways specified at serial numbers 1 to 5 in the Schedule along with their limits given in column (3) thereof, which have been declared as such under the Acts referred to in sub-section (1) of section 5, shall, subject to the modifications made under this Act, continue to be national waterways for the purposes of shipping and navigation under this Act.

(2) The regulation and development of the waterways referred to in sub-section (1) which have been under the control of the Central Government shall continue, as if the said waterways are declared as national waterways under the provisions of this Act.

(3) The inland waterways specified at serial numbers 6 to 111 in the Schedule along with their limits given in column (3) thereof are hereby declared to be national waterways for the purposes of shipping and navigation.

Declaration as to expediency of control and development by Union of waterways specified in Schedule for certain purposes.

3. Save as provided in sub-sections (1) and (2) of section 2, it is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation and development of the waterways specified in the Schedule for the purposes of shipping and navigation to the extent provided in the Inland Waterways Authority of India Act, 1985.

82 of 1985.

Amendment of section 2 of Act 82 of 1985.

4. In the Inland Waterways Authority of India Act, 1985, in section 2, for clause (h), the following clause shall be substituted, namely:—

‘(h) “national waterway” means the inland waterway declared by section 2 of the National Waterways Act, 2016, to be a national waterway.

*Explanation.*— If Parliament declares by law any other waterway to be a national waterway, then, from the date on which such declaration takes effect, such other waterway—

(i) shall also be deemed to be a national waterway within the meaning of this clause; and

(ii) the provisions of this Act shall, with necessary modifications (including modification for construing any reference to the commencement of this Act as a reference to the date aforesaid), apply to such national waterway.’

Repeal of certain enactments and saving.

5. (1) The following Acts, namely:—

(a) the National Waterway (Allahabad-Haldia Stretch of the Ganga Bhagirathi-Hooghly River) Act, 1982;

49 of 1982.

(b) the National Waterway (Sadiya-Dhubri Stretch of Brahmaputra River) Act, 1988;

40 of 1988.

(c) the National Waterway (Kollam-Kottapuram Stretch of West Coast Canal and Champakara and Udyogmandal Canals) Act, 1992;

25 of 1992.

(d) the National Waterway (Talcher-Dhamra Stretch of Rivers, Geonkhali-Charbatia Stretch of East Coast Canal, Charbatia-Dhamra Stretch of Matai River and Mahanadi Delta Rivers) Act, 2008; and

23 of 2008.

(e) the National Waterway (Kakinada-Puducherry Stretch of Canals and the Kaluvelly Tank, Bhadrachalam-Rajahmundry Stretch of River Godavari and Wazirabad-Vijayawada Stretch of River Krishna) Act, 2008;

24 of 2008.

are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Acts referred to in sub-section (1), in so far as they are in conformity with the provisions of this Act, shall be deemed to have been done or omitted to be done or taken or not taken under the provisions of this Act.



## THE SCHEDULE

(See section 2)

Sl.No.	National Waterways	Limits of the National Waterways
(1)	(2)	(3)
1.	National Waterway 1	<p>Allahabad-Haldia Stretch of the Ganga—Bhagirathi-Hooghly Rivers with the following limits, namely:—</p> <p>From road bridge at Allahabad across the river Ganga, about 2 kilometres upstream of the confluence of the rivers Ganga and Yamuna at Triveni to the inland waterway limit on the tidal waters of the river Hooghly from a line drawn between No.1 Refuge house at the entrance to Baratola river commonly called channel creek, to a position 2.5 kilometres due south of Saugor lighthouse, and then connected to the right or south bank at the entrance to the Hijili or Russulpore river, through river Ganga, lock canal and feeder canal at Farakka, river Bhagirathi and river Hooghly.</p>
2.	National Waterway 2	<p>Sadiya-Dhubri Stretch of Brahmaputra River with the following limits, namely:—</p> <p>From a line drawn across the Brahmaputra river from the point on the north bank of the Kundil river at its confluence with the Brahmaputra river near Sadiya to the beginning of the river island Majuli and therefrom through all the channels of the Brahmaputra river on either side of the river island Majuli up to the end of the river island Majuli and then up to the international border down stream of Dhubri.</p>
3.	National Waterway 3	<p>Kollam-Kozhikode Stretch of West Coast Canal and Champakara and Udyogmandal Canals with the following limits, namely:—</p> <p>The northern limit of the West Coast Canal shall be Kozhikode at Lat 11°13'39"N, Lon 75°46'44"E and the southern limit shall be a line drawn across the Ashtamudi Kaya! at a distance of 100 metres south of Kollam jetty.</p> <p>The Champakara Canal starting from the confluence with the West Coast Canal and ending at the railway bridge (railway siding for Cochin Oil Refinery) near Fertilisers and Chemicals Travancore Limited, boat basin.</p> <p>The Udyogmandal Canal starting from the confluence with West Coast Canal and ending at the Padalarn road bridge (Eloor-Edayar).</p>



(1)	(2)	(3)
4.	National Waterway 4	<p data-bbox="726 257 1316 425">Kakinada-Puducherry Stretch of Canals and the Kaluvelly Tank, Nashik-Bhadrachalam-Rajahmundry Stretch of River Godavari and Bridge near village Galagali-Wazirabad-Vijayawada Stretch of River Krishna with the following limits, namely:—</p> <p data-bbox="726 436 1045 470"><i>Kakinada-Puducherry canal</i></p> <p data-bbox="726 481 1316 638">(Canal system consisting of Kakinada canal, Eluru canal, Commamur canal and North Buckingham canal, portion of the Cooyum river linking North and South Buckingham canals, South Buckingham canal and Kaluvelly tank)</p> <p data-bbox="726 649 1316 784">Northern limit: A line drawn across the Kakinada canal parallel to the Jagannadhapuram road bridge, Kakinada at a distance of 500 metres down stream at Lat 16° 56' 24" N, Lon 82° 14' 20" E;</p> <p data-bbox="726 795 1316 952">Southern limit: Junction of East Coast Highway and Chinnakalawari-Kanakachettikulam road at Kanakachettikulam which is the end point of the artificial canal link to Kaluvelly tank at Lat 20° 0' 07" N, Lon 79° 52' 12" E.</p> <p data-bbox="726 963 901 996"><i>River Godavari</i></p> <p data-bbox="726 1008 1316 1108">Western limit: Road bridge on Mumbai-Agra Highway at Nashik across river Godavari at Lat 20° 0' 07" N, Lon 73° 48' 12" E;</p> <p data-bbox="726 1120 1316 1220">Eastern limit: Sir Arthur Cotton barrage across river Godavari at Dowlaiswaram, Rajahmundry at Lat 16° 56' 05" N, Lon 81° 45' 32" E.</p> <p data-bbox="726 1232 885 1265"><i>River Krishna</i></p> <p data-bbox="726 1276 1316 1332">Western limit: Bridge near village Galagali Lat 16° 25' 28" N, Lon 75° 26' 19" E.</p> <p data-bbox="726 1344 1316 1411">Eastern limit: Prakasam barrage across river Krishna at Vijayawada at Lat 16° 30' 18" N, Lon 80° 36' 23" E.</p>
5.	National Waterway 5	<p data-bbox="726 1422 1316 1579">Talcher-Dhamra Stretch of Brahmani-Kharsua-Tantighai-Pandua Nala-Dudhei Nala-Kani Dhamra-river system, Geonkhali-Charbatia Stretch of East Coast Canal, Charbatia-Dhamra Stretch of Matai River and Mahanadi Delta Rivers with the following limits, namely:—</p> <p data-bbox="726 1590 1316 1657"><i>East Coast Canal and Matai river</i> (Consisting of old Hijli tidal canal, Orissa coast canal and Matai river)</p> <p data-bbox="726 1668 1316 1758">Northern limit: Confluence point of Hooghly river and Hijli tidal canal at Geonkhali at Lat 22° 12' 20" N, Lon 88° 03' 07" E;</p> <p data-bbox="726 1769 1316 1859">Southern limit: Confluence of Matai river and Dhamra river near Dhamra Fishing harbour at Lat 20° 47' 42" N, Lon 86° 53' 03" E.</p> <p data-bbox="726 1870 1316 1960"><i>Brahmani-Kharsua-Dhamra river system</i> (Consisting of Brahmani-Kharsua-Tantighai-Pandua Nala-Dudhei Nala-Kani-Dhamra rivers)</p>



(1)	(2)	(3)
		<p>North-Western limit: Samal barrage across river Brahmani, Talcher at Lat 21° 04' 26" N, Lon 86° 08' 05" E;</p> <p>South-Eastern limit: An imaginary line drawn across Dhamra river at East Point of Kalibhanj Dian Reserved Forest near Chandnipal at Lat 20° 46' 26" N, Lon 86° 57' 15" E.</p> <p><i>Mahanadi delta rivers</i> (Consisting of Hansua river, Atharabanki Creek, Nuna nala, Gobri nala, Kharnasi river and Mahanadi river)</p> <p>(Alternate route-Hansua river enters into Bay of Bengal through northern point of False point bay, then enters river Kharnasi at southern end of False point bay, river Atharabanki, a northernly tributary of river Mahanadi)</p> <p>Northern limit: Confluence of Kharsua river with Brahmani river at Ramchandrapur at Lat 20° 36' 55" N, Lon 86° 45' 05" E;</p> <p>Southern limit: An imaginary line in continuation to the Northern break water structure across the entrance channel at Paradip Port at Lat 20° 15' 38" N, Long 86° 40' 55" E.</p>
6.	National Waterway 6	<p><i>Aai River:</i></p> <p>Upstream of Bridge at Adalguri No.3 at Lat 26°33'32"N, Lon 90°34'01"E to confluence with Brahmaputra river at Lat 26°12'50"N, Lon 90°36'24"E (4.7km upstream of Naranarayan Setu at Jogighopa).</p>
7.	National Waterway 7	<p><i>Ajoy (Ajay) River:</i></p> <p>Bridge on Morgram-Panagarh State Highway No. 14 at Illambazar Lat 23°36'56"N, Lon 87°31'58"E to confluence of river Ajoy with river Bhagirathi at Lat 23°39'23"N, Lon 88° 07'57"E at Katwa.</p>
8.	National Waterway 8	<p><i>Alappuzha-Changanassery Canal:</i></p> <p>Boat Jetty, Alappuzha at Lat 9°30'03"N, Lon 76°20'37"E to Changanassery Jetty at Lat 9°26'42"N, Lon 76°31'42"E.</p>
9.	National Waterway 9	<p><i>Alappuzha-Kottayam Athirampuzha Canal:</i></p> <p>Boat Jetty, Alappuzha at Lat 9°30'03"N, Lon 76°20'37"E to Athirampuzha market Lat 9°40'04"N, Lon 76°31'54"E.</p>
10.	National Waterway 10	<p><i>Amba River:</i></p> <p>Arabian Sea, Dharamtaar creed near village Revas at Lat: 18°50'15"N, Lon 72°56'31"E to a Bridge near Nagothane ST Stand at Lat 18°32'20"N, Lon 73°08'0"E.</p>
11.	National Waterway 11	<p><i>Arunawati Aran River System:</i></p> <p>Bridge on State Highway No. 211 at Lat 20°13'33"N, Lon 77°33'23"E to confluence of Arunawati and Aran rivers near Ratanapur village at Lat 19°59'31"N, Lon 78°09'38"E to confluence of Aran and Penganga rivers near Chimata village at Lat 19°54'08"N, Lon 78°12'36"E.</p>



(1)	(2)	(3)
12.	National Waterway 12	<i>Asi River:</i> Ganga river confluence at Assi Ghat, Varanasi at Lat 25°17'19"N, Lon 83°0'25"E to near Newada, Varanasi at Lat 25°16'37"N, Lon 82°58'18"E.
13.	National Waterway 13	<i>AVM Canal:</i> Poovar Beach at Lat 8°18'30"N, Lon 77°04'45"E to Erayumanthurai Bus Stop at Lat 8°14'54"N, Lon 77°09'34"E.
14.	National Waterway 14	<i>Baitarni River:</i> Dattapur village at Lat 20°51'45"N, Lon 86°33'30"E to confluence with Dhamra river near Laxmiprasad Dia at Lat 20°45'13"N, Lon 86°49'15"E.
15.	National Waterway 15	<i>Bakreswar Mayurakshi River System:</i> Bakreswar river from Nil Nirjan Dam at Lat 23°49'31"N, Lon 87°24'59"E to confluence of Bakreswar and Mayurakshi rivers near Talgram village at Lat 23°51'58"N, Lon 88°02'21"E.  Mayurakshi river from Talgram village to confluence with Dwarka river near Dakshin Hijal village at Lat 23°58'22"N, Lon 88°09'21"E.
16.	National Waterway 16	<i>Barak River:</i> Lakhipur Ferry Ghat Lat 24°47'18"N, Lon 93°01'16"E to Tukur Gram Lat 24°52'34"N, Lon 92°29'21"E.
17.	National Waterway 17	<i>Beas River:</i> Talwara Barrage at Lat 31°57'22"N, Lon 75°53'37"E to confluence of Beas and Sutlej rivers near Harike at Lat 31°09'09"N, Lon 74°58'08"E.
18.	National Waterway 18	<i>Beki River:</i> Elenagamari Lat 26°38'37"N, Lon 90°59'02"E to Brahmaputra confluence at Lat 26°14'24"N, Lon 90°47'21"E.
19.	National Waterway 19	<i>Betwa River:</i> Rirwa Buzurg Dariya at Lat 25°54'17"N, Lon 79°45'06"E to confluence of Betwa and Yamuna rivers near Merapur Daria village at Lat 25°55'11"N, Lon 80°13'08"E.
20.	National Waterway 20	<i>Bhavani River:</i> Bhavani Sagar Dam, Sathyamangalam at Lat 11°28'16"N, Lon 77°06'49"E to confluence of Bhavani and Kaveri rivers at Kaveri river bridge on Salem-Coimbatore Highway: "National Highway-47 Lat 11°25'54"N, Lon 77°41'02"E.
21.	National Waterway 21	<i>Bheema River:</i> Barrage (approx 1 km from Hippargi village) at Lat 17°09'05"N, Lon 76°46'34"E to confluence of Bheema and Krishna rivers at Gundloor Lat 16°24'28"N, Lon 77°17'13"E.
22.	National Waterway 22	<i>Birupa Badi Genguti Brahmani River System:</i>



(1)	(2)	(3)
		<p>Birupa Barrage at Choudwar at Lat 20°30'49"N, Lon 85°55'20"E to Confluence of Birupa and Brahmani rivers near Upperkai Pada village at Lat 20°37'36"N, Lon 86°24'19"E including alternative route from, Samaspur village Lat 20°35'41"N, Lon 86°06'32"E to near Kharagpur village Lat 20°38'28"N, Lon 86°17'32"E.</p> <p>Bramani river from confluence of Birupa and Brhmani rivers near Upperkai Pada village at Lat 20°37'36"N, Lon 86°24'19"E to Bramani river at Katana Lat 20°39'26"N, Lon 86°44'53"E.</p>
23.	National Waterway 23	<p><i>Budha Balanga River:</i> Barrage (approx 300m from Patalipura village) at Lat 21°38'13"N, Lon 86°50'53"E to confluence of Budha Balanga river with Bay of Bengal at Chandipur Fishing Port Lat 21°28'12"N, Lon 87°04'12"E.</p>
24.	National Waterway 24	<p><i>Chambal River:</i> Chambal road bridge on National Highway-92 Lat 26°41'56"N, Lon 78°56'09"E to confluence of Chambal and Yamuna rivers at Charakpura village Lat 26°29'30"N, Lon 79°15'01"E.</p>
25.	National Waterway 25	<p><i>Chapora River:</i> Bride at State Highway No. 124 (1Km from Maneri village) Lat 15°42'47"N, Lon 73°57'23"E to Confluence of Chapora river with Arabian Sea at Morjim Lat 15°36'33"N, Lon 73°44'01"E.</p>
26.	National Waterway 26	<p><i>Chenab River:</i> Chenab road bridge at Lat 33°05'07"N, Lon 74°48'06"E to Bridge near Bhardakalan at Lat 32°48'12"N, Lon 74°34'53"E.</p>
27.	National Waterway 27	<p><i>Cumberjua River:</i> Confluence of Cumberjua and Zuvari rivers near Cortalim ferry terminal Lat 15°24'40"N, Lon 73°54'48"E to confluence of Cumberjua and Mandovi rivers near Sao Martias Vidhan Parishad Lat 15°31'26"N, Lon 73°55'34"E.</p>
28.	National Waterway 28	<p><i>Dabhol Creek Vashishti River:</i> Arabian Sea at Dabhol Lat 17°34'51"N, Lon 73°09'18"E to bridge at Pedhe Lat 17°32'39"N, Lon 73°30'36"E.</p>
29.	National Waterway 29	<p><i>Damodar River:</i> Krishak Setu, Bardhman on State Highway No. 8 at Lat 23°12'40"N, Lon 87°50'54"E to confluence with Hooghly river near Purbha Basudebpur at Lat 22°21'01"N, Lon 88°05'19"E.</p>
30.	National Waterway 30	<p><i>Dehing River:</i> Rail Bridge at Merbil Majuli No. 1 Lat 27°19'25"N, Lon 95°18'45"E to confluence of Dehing and Brahmaputra rivers near village Lachan at Lat 27°15'10"N, Lon 94°40'01"E.</p>
31.	National Waterway 31	<p><i>Dhansiri/Chathe River:</i> Bridge near Morongi T.E. village Lat 26°24'41"N, Lon 93°53'47"E to Numaligarh Lat 26°42'01"N, Lon 93°35'15"E.</p>



(1)	(2)	(3)
32.	National Waterway 32	<i>Dikhu River:</i> Bridge at Nazira on State Highway No 1 Lat 26°55'18"N, Lon 94°44'27"E to confluence of Dikhu and Brahmaputra rivers at Lat 26°59'58"N, Lon 94°27'42"E.
33.	National Waterway 33	<i>Doyans River:</i> Bridge near Sialmari Lat 26°10'47"N, Lon 93°59'10"E to confluence of Doyans and Subansiri rivers at Lat 26°26'53"N, Lon 93°57'12"E.
34.	National Waterway 34	<i>DVC Canal:</i> Durgapur Barrage Lat 23°28'47"N, Lon 87°18'19"E to Confluence point of DVC canal with Hoogly river near Tribeni Lat 23°0'31"N, Lon 88°24'55"E.
35.	National Waterway 35	<i>Dwarakeswar River:</i> Bridge near Abantika Lat 23°06'55"N, Lon 87°18'47"E to confluence of Dwarakeswar and Silai rivers at Pratappur Lat 22°40'17"N, Lon 87°46'43"E.
36.	National Waterway 36	<i>Dwarka River:</i> Bridge at Tarapith at Lat 24°06'58"N, Lon 87°47'51"E to confluence with Bhagirathi river near Maugram village at Lat 23°43'53"N, Lon 88°10'51"E.
37.	National Waterway 37	<i>Gandak River:</i> Bhaisaslotal Barrage near Triveni Ghat at Lat 27°26'22"N, Lon 83°54'24"E to Gandak and Ganga rivers confluence at Hajipur Lat 25°39'18"N, Lon 85°10'28"E.
38.	National Waterway 38	<i>Gangadhar River:</i> Pakriguri Bridge on National Highway-31C at Lat 26°27'30"N, Lon 89°51'25"E to Bangladesh Border at Binnachara Point III Lat 26°0'32"N, Lon 89°49'57"E.
39.	National Waterway 39	<i>Ganol River:</i> Bangladesh Border at Mankachar Lat 25°31'47"N, Lon 89°51'24"E to bridge near Dolbari at Lat 25°34'20"N, Lon 90°03'46"E.
40.	National Waterway 40	<i>Ghaghra River:</i> Faizabad at Lat 26°47'51"N, Lon 82°06'46"E to Ghaghra and Ganga river confluence at Manjhi Ghat Lat 25°44'13"N, Lon 84°42'03"E.
41.	National Waterway 41	<i>Ghataprabha River:</i> Barrage near Malali Lat 16°20'01"N, Lon 75°11'23"E to confluence with river Krishna at Chicksangam Lat 16°20'13"N, Lon 75°47'54"E.
42.	National Waterway 42	<i>Gomti River:</i> Bara Imambara, Lucknow Lat 26°52'21"N, Lon 80°54'58"E to confluence of Gomti with river Ganga Lat 25°30'31"N, Lon 83°10'17"E.
43.	National Waterway 43	<i>Gurupur River:</i> Confluence of Netravathi river at Lat 12°50'44"N, Lon 74°49'45"E to confluence of Mangalore Port Bridge at Lat 12°55'35"N, Lon 74°49'37"E.



(1)	(2)	(3)
44.	National Waterway 44	<i>Ichamati River:</i> Bridge on Border Main Road at Gobra near Bangladesh Border at Lat 22°53'50"N, Lon 88°53'49"E to near Bangladesh Border at Bansjhari Mallikpur Lat 22°39'07"N, Lon 88°55'35"E.
45.	National Waterway 45	<i>Indira Gandhi Canal:</i> Harike Barrage at Lat 31°08'33"N, Lon 74°56'57"E to near Mohangarh Lat 27°18'37"N, Lon 71°09'10"E.
46.	National Waterway 46	<i>Indus River:</i> Bridge on highway at Upshi village Lat 33°49'43"N, Lon 77°48'56"E to Bridge on Shey-Chuchol road near Shey village Lat 34°03'35"N, Lon 77°38'33"E.
47.	National Waterway 47	<i>Jalangi River:</i> Bridge on State Highway No. 14 near Plashipara at Lat 23°47'47"N, Lon 88°27'09"E to confluence of Jalangi with Hooghly/Bhagirathi rivers at Nabadwip Lat 23°24'39"N, Lon 88°22'48"E.
48.	National Waterway 48	<i>Jawai-Luni Rivers and Rann of Kutch:</i> Jawai river from Jalore at Lat 25°20'37"N, Lon 72°41'09"E to Luni river near Gandhav village to Rann of Kutch at Lat 23°32'54"N, Lon 68°22'27"E.
49.	National Waterway 49	<i>Jhelum River:</i> Bridge on highway at Lat 33°49'26"N, Lon 75°03'50"E to Wuler lake, Srinagar at Lat 34°21'37"N, Lon 74°36'36"E.
50.	National Waterway 50	<i>Jinjiram River:</i> Confluence with Brahmaputra river at Tumni Lat 25°51'51"N, Lon 89°58'57"E to Fulerchar Point. III at Brahmaputra river Lat 25°44'15"N, Lon 89°52'53"E.
51.	National Waterway 51	<i>Kabini River:</i> Kabini Dam Lat 11°58'25"N, Lon 76°21'10"E to Beeramballi at Lat 11°56'10"N, Lon 76°14'18"E.
52.	National Waterway 52	<i>Kali River:</i> Kodasalli Dam Lat 14°55'08"N, Lon 74°32'07"E to confluence of Kali river with Arabian Sea near Sadashivgad bridge at Lat 14°50'31"N, Lon 74°07'21"E.
53.	National Waterway 53	<i>Kalyan-Thane-Mumbai Waterway, Vasai Creek and Ulhas River:</i> Arabian Sea at Navi Mumbai Lat 18°55'50"N, Lon 72°53'22"E via Ulhas river to bridge on State Highway No. 76 near Malegaon T. Waredi Lat 19°02'38"N, Lon 73°19'54"E;  Bridge on Kalyan-Badlapur road near Kalyan railway yard at Kalyan Lat 19°14'06"N, Lon 73°08'49"E to Kalyan Lat 19°15'35"N, Lon 73°09'28"E;  Vasai Creek from Lat 19°18'54"N to Lon 72°47'30"E to Kasheli at Lat 19°13'23"N, Lon 73°0'21"E.



(1)	(2)	(3)
54.	National Waterway 54	<i>Karamnasa River:</i> Bridge at Kakarait Lat 25°18'11"N, Lon 83°31'38"E to confluence of Karamnasa and Ganga rivers at Kutubpur Lat 25°31'06"N, Lon 83°52'47"E.
55.	National Waterway 55	<i>Kaveri Kollidam River:</i> Uratchikottai Barrage at Lat 11°29'03"N, Lon 77°42'14"E to confluence of river Kollidam with Bay of Bengal at Pazhayar Lat 11°21'38"N, Lon 79°49'53"E.
56.	National Waterway 56	<i>Kherkai River:</i> Dam near Gangia village at Lat 22°45'12"N, Lon 86°05'09"E to confluence with Subarnrekha river at Jamshedpur Lat 22°50'13"N, Lon 86°09'37"E.
57.	National Waterway 57	<i>Kopili River:</i> Bridge at Banthai Gaon Tinali Bus Stop at Lat 26°10'41"N, Lon 92°13'05"E to confluence with Brahmaputra river at Chandrapur No. 2 Lat 26°15'07"N, Lon 91°56'49"E.
58.	National Waterway 58	<i>Kosi River:</i> Kosi Barrage at Hanuman Nagar Lat 26°31'40"N, Lon 86°55'29"E to Confluence of Kosi with Ganga river at Kursela Lat 25°24'40"N, Lon 87°15'14"E.
59.	National Waterway 59	<i>Kottayam-Vaikom Canal:</i> Kottayam, near Kodimatha at Lat 9°34'39"N, Lon 76°31'08"E to Vechoor joining National Waterway No. 3 at Lat 9°40'0"N, Lon 76°24'11"E.
60.	National Waterway 60	<i>Kumari River:</i> Dam near Amruhasa village at Lat 23°06'37"N, Lon 86°15'51"E to Mukutmanipur Dam at Chiada Lat 22°57'18"N, Lon 86°44'43"E.
61.	National Waterway 61	<i>Kynshi River:</i> Bangladesh Border near Mawpyllum Lat 25°12'07"N, Lon 91°15'21"E to bridge on Nonghyllam-Maweit road at Lat 25°19'35"N, Lon 91°04'07"E.
62.	National Waterway 62	<i>Lohit River:</i> Parasuram Kund at 27°52'40"N, Lon 96°21'40"E to Saikhowa Ghat, Sadiya Lat 27°47'49"N, Lon 95°38'14"E.
63.	National Waterway 63	<i>Luni River:</i> Dam at Jaswantpura Lat 26°13'35"N, Lon 73°41'20"E to Barrage near Malipura Lat 24°57'04"N, Lon 71°38'02"E.
64.	National Waterway 64	<i>Mahanadi River:</i> Sambalpur Barrage at Lat 21°27'34"N, Lon 83°57'50"E to Paradip at Lat 20°19'38"N, Lon 86°40'17"E.
65.	National Waterway 65	<i>Mahananda River:</i> Bridge near Gosaipur at Lat 25°26'41"N, Lon 88°05'26"E to Bangladesh Border near Adampur at Lat 24°57'17"N, Lon 88°10'59"E.



(1)	(2)	(3)
66.	National Waterway 66	<i>Mahi River:</i> Kadana Dam Lat 23°18'22"N, Lon 73°49'37"E to confluence with Gulf of Khambhat near Kavi railway station Lat 22°10'35"N, Lon 72°30'36"E.
67.	National Waterway 67	<i>Malaprabha River:</i> Jakanuru at Lat 15°49'51"N, Lon 75°38'54"E to confluence with river Krishna at Kudalasangama Lat 16°12'30"N, Lon 76°04'16"E.
68.	National Waterway 68	<i>Mandovir River:</i> Bridge at Usgaon at Lat 15°26'42"N, Lon 74°03'12"E to confluence of Mandovi river with Arabian Sea at Reis Magos Lat 15°28'32"N, Lon 73°46'46"E.
69.	National Waterway 69	<i>Manimutharu River:</i> Manimutharu Dam Lat 8°39'14"N, Lon 77°24'47"E to confluence with Tramaraparani river near Aladiur Lat 8°41'03"N, Lon 77°26'07"E.
70.	National Waterway 70	<i>Manjara River:</i> Singur Dam at Lat 17°44'58"N, Lon 77°55'41"E to confluence with river Godavari at Kandakurthi at Lat 18°49'07"N, Lon 77°52'20"E.
71.	National Waterway 71	<i>Mapusa/Moide River:</i> Bridge on National Highway-17 at Mapusa Lat 15°35'21"N, Lon 73°49'17"E to confluence point of Mapusa and Mandovi rivers at Porvorim Lat 15°30'20"N, Lon 73°50'42"E.
72.	National Waterway 72	<i>Nag River:</i> Bridge near NIT Colony, Nagpur Lat 21°06'17"N, Lon 79°06'03"E to confluence with river Kanhan near Sawangi village at Lat 21°05'38"N, Lon 79°27'54"E.
73.	National Waterway 73	<i>Narmada River:</i> Pandhariya at Lat 21°57'10"N, Lon 74°08'27"E to confluence of Narmada with Arabian Sea at Gulf of Khambhat Lat 21°38'27"N, Lon 72°33'28"E.
74.	National Waterway 74	<i>Netravathi River:</i> Netravathi Dam, Dharmsthala Lat 12°57'55"N, Lon 75°22'10"E to confluence with Arabian sea at Bengre Lat 12°50'43"N, Lon 74°49'29"E.
75.	National Waterway 75	<i>Palar River:</i> Rail bridge at Virudampattu, Vellore at Lat 12°56'14"N, Lon 79°07'30"E to confluence with Bay of Bengal at Sadurangapattinam Lat 12°27'52"N, Lon 80°09'13"E.
76.	National Waterway 76	<i>Panchagangavali (Panchagangoli) River:</i> Gangoli Port at Lat 13°38'01"N, Lon 74°40'08"E to Bridge at Badakere at Lat 13°44'50"N, Lon 74°39'15"E.
77.	National Waterway 77	<i>Pazhyar River:</i> Bridge near Veerananarayana Mangalam village at Lat 8°13'49"N, Lon 77°26'27"E to confluence with Arabian Sea at Manakudi at Lat 8°05'15"N, Lon 77°29'08"E.



(1)	(2)	(3)
78.	National Waterway 78	<i>Penganga Wardha River System:</i> Confluence of Aran and Penganga rivers near Chimata village at Lat 19°54'08"N, Lon 78°12'36"E to the confluence of Wardha and Pranahita rivers near Ravalli village at Lat 19°33'59"N, Lon 79°49'0"E.
79.	National Waterway 79	<i>Pennar River:</i> Penna Barrage, Pothireddypalem at Lat 14°28'08"N, Lon 79°59'09"E to confluence with Bay of Bengal near Kudithipalem at Lat 14°35'37"N, Lon 80°11'31"E.
80.	National Waterway 80	<i>Ponniyar River:</i> Sathanur Dam at Lat 12°11'0"N, Lon 78°51'01"E to Cuddalore at confluence of Bay of Bengal at Lat 11°46'22"N, Lon 79°47'42"E.
81.	National Waterway 81	<i>Punpun River:</i> Bridge on National Highway-83 near Pakri village Lat 25°29'50"N, Lon 85°06'19"E to confluence with river Ganga at Fatuha Lat 25°30'50"N, Lon 85°18'17"E.
82.	National Waterway 82	<i>Puthimari River:</i> Bridge on National Highway-31 near village Ghopla at Lat 26°22'01"N, Lon 91°39'11"E to confluence with Brahmaputra river near Bamunbori at Lat 26°15'28"N, Lon 91°20'35"E."
83.	National Waterway 83	<i>Rajpuri Creek:</i> Arabian Sea at Rajpuri Lat 18°18'03"N, Lon 72°56'43"E to Mhasala at Lat 18°08'15"N, Lon 73°06'45"E.
84.	National Waterway 84	<i>Ravi River:</i> Dam at Gandhiar Lat 32°35'51"N, Lon 75°59'05"E to Ranjeet Sagar Dam at Basoli Lat 32°26'36"N, Lon 75°43'45"E.
85.	National Waterway 85	<i>Revadanda Creek Kundalika River System:</i> Arabian Sea at Revadanda Lat 18°32'20"N, Lon 72°55'33"E to bridge on Roha-Astami Road near Roha Nagar Lat 18°26'32"N, Lon 73°07'11"E.
86.	National Waterway 86	<i>Rupnarayan River:</i> Confluence of Dwarakeswar and Silai rivers at Pratappur Lat 22°40'17"N, Lon 87°46'43"E to confluence with Hooghly river at Geonkhali Lat 22°12'42"N, Lon 88°03'14"E.
87.	National Waterway 87	<i>Sabarmati River:</i> Barrage near Sadoliya Lat 23°26'50"N, Lon 72°48'35"E to confluence with Gulf of Khambhat near Khambhat Lat 22°09'18"N, Lon 72°27'28"E.
88.	National Waterway 88	<i>Sal River:</i> Orlim Deusa Bridge Lat 15°13'11"N, Lon 73°57'30"E to confluence with Arabian Sea at Mobor Lat 15°08'32"N, Lon 73°57'0"E.



(1)	(2)	(3)
89.	National Waterway 89	<i>Savitri River (Bankot Creek):</i> Bridge near Sape at Lat 18°05'54"N, Lon 73°20'09"E to Arabian Sea at Bankot Lat 17°58'47"N, Lon 73°01'45"E.
90.	National Waterway 90	<i>Sharavati River:</i> Honnavar Port Sea Mouth at Lat 14°17'56"N, Lon 74°25'27"E to link at highway at Gersoppa Lat 14°14'15"N, Lon 74°39'06"E.
91.	National Waterway 91	<i>Shastri River Jaigad Creek:</i> Sangmeshwar at Lat 17°11'16"N, Lon 73°33'03"E to confluence with Arabian Sea at Jaigad Lat 17°19'12"N, Lon 73°12'39"E.
92.	National Waterway 92	<i>Silabati River:</i> Barrage near Shimulia village at Lat 22°34'53" N, Lon 87°38'31"E to confluence of Dwarakeswar and Silai rivers at Pratappur Lat 22°40'17"N, Lon 87°46'43"E.
93.	National Waterway 93	<i>Simsang River:</i> Bangladesh Border at Lat 25°11'05"N, Lon 90°39'25"E to bridge on National Highway-62 near Nongalbibra Lat 25°27'20"N, Lon 90°42'22"E.
94.	National Waterway 94	<i>Sone River:</i> Sone Barrage near Dehri at Lat 24°50'14" N, Lon 84°08'03"E to confluence of Sone and Ganga rivers at Lat 25°42'15"N, Lon 84°52'02"E.
95.	National Waterway 95	<i>Subansiri River:</i> Gerukamukh Lat 27°27'03" N, Lon 94°15'16"E to Brahmaputra confluence at Lat 26°52'25"N, Lon 93°54'31"E.
96.	National Waterway 96	<i>Subarnrekha River:</i> Chandil Dam at Lat 22°58'29" N, Lon 86°01'14"E to confluence with Bay of Bengal at Lat 21°33'29"N, Lon 87°22'59"E.
97.	National Waterway 97	<i>Sunderbans Waterways:</i> (i) Namkhana at Lat 21°45'46" N, Lon 88°13'06"E to Athara Banki Khal Lat 21°56'57"N, Lon 89°05'32"E; (ii) <i>Bidya River:</i> Lot No. 124 at Lat 21°54'43" N, Lon 88°41'08"E to near Uttar Danga at Lat 22°11'48"N, Lon 88°51'55"E; (iii) <i>Chhota Kalagachi(Chhoto Kalergachi) River:</i> Near Rajani ferry ghat Lat 22°19'57" N, Lon 88°54'21"E to near Nazat at Lat 22°26'05"N, Lon 88°50'12"E; (iv) <i>Gomar River:</i> Near Ramkrishnapur Lat 22°11'53" N, Lon 88°44'42"E to near Gosaba Kheya ghat at Lat 22°10'05"N, Lon 88°47'37"E; (v) <i>Haribhanga River:</i> Bangladesh Border Lat 21°53'19" N, Lon 89°01'24"E to confluence with Jhila river at Lat 21°58'18"N, Lon 88°55'08"E;



(1)	(2)	(3)
		(vi) <i>Hogla(Holgal)-Pathankhali River</i> : Near Parandar Lat 22°12'22" N, Lon 88°40'43" E to near Sandeshkhali Ferry Ghat at Lat 22°21'12" N, Lon 88°52'48" E;
		(vii) <i>Kalindi (Kalandi) River</i> : Bangladesh Border at Hingalganj Lat 22°28'08" N, Lon 88°59'46" E to Bangladesh Border near Khosbash at Lat 22°24'41" N, Lon 88°58'21" E;
		(viii) <i>Katakhali River</i> : Bangladesh Border near Barunhat Lat 22°30'31" N, Lon 88°58'25" E to Lebukhali ferry at Lat 22°21'45" N, Lon 88°57'30" E;
		(ix) <i>Matla River</i> : Bay of Bengal at Lat 21°33'04" N, Lon 88°38'26" E to Canning ferry ghat at Lat 22°18'39" N, Lon 88°40'43" E;
		(x) <i>Muri Ganga (Baratala) River</i> : Bay of Bengal near Bisalakshmi Pur Lat 21°37'52" N, Lon 88°10'0" E to near Kakdwip at Lat 21°52'17" N, Lon 88°09'08" E;
		(xi) <i>Raimangal River</i> : Hemnagar at Lat 22°11'41" N, Lon 88°58'01" E to Rajnagar at Lat 22°33'57" N, Lon 88°56'17" E;
		(xii) <i>Sahibkhali (Sahebkhali) River</i> : Near Ramapur Lat 22°17'52" N, Lon 88°56'35" E to Bangladesh Border near Khosbash at Lat 22°24'41" N, Lon 88°58'21" E;
		(xiii) <i>Saptamukhi River</i> : Bay of Bengal at Henry Island Lat 21°34'57" N, Lon 88°19'08" E to near Chintamanipur at Lat 21°51'14" N, Lon 88°18'41" E;
		(xiv) <i>Thakurran River</i> : Bay of Bengal at Lat 21°33'32" N, Lon 88°27'45" E to Madhabpur at Lat 22°02'52" N, Lon 88°33'28" E;
98.	National Waterway 98	<i>Sutlej River</i> : Sunni Road Bridge at Lat 31°14'45" N, Lon 77°07'34" E to Harike Dam at Lat 31°08'33" N, Lon 74°56'57" E.
99.	National Waterway 99	<i>Tamaraparani River</i> : Sulochana Mudalir bridge, Tirunelveli Lat 8°43'43" N, Lon 77°42'54" E to confluence with Bay of Bengal near Punnaikayal at Lat 8°38'25" N, Lon 78°07'38" E.
100.	National Waterway 100	<i>Tapi River</i> : Hatnur Dam Near Mangalwadi Lat 21°04'22" N, Lon 75°56'45" E to Gulf of Khambhat (Arabian Sea) at Lat 21°02'16" N, Lon 72°39'30" E.
101.	National Waterway 101	<i>Tizu and Zungki Rivers</i> : Longmatra at Lat 25°46'12" N, Lon 94°44'35" E to Avanghku at Myanmar border Lat 25°35'03" N, Lon 94°53'06" E and in Zungki river from bridge at Lat 25°48'26" N, Lon 94°46'36" E to confluence of Zungki and Tizu rivers at Lat 25°46'58" N, Lon 94°45'21" E.



(1)	(2)	(3)
102.	National Waterway 102	<i>Tlhwang (Dhaleswari River):</i> Khamrang near National Highway-54 Lat 23°55'22"N, Lon 92°39'08"E to Bridge on National Highway-154 at Gharmura Lat 24°17'19"N, Lon 92°31'0"E.
103.	National Waterway 103	<i>Tons River:</i> Bridge on National Highway-27 near Chakghat at Lat 25°02'05"N, Lon 81°43'45"E to Ganga confluence at Sirsa Lat 25°16'32"N, Lon 82°05'0"E.
104.	National Waterway 104	<i>Tungabhadra River:</i> Bridge on State Highway No. 29 near Chikka Jantakal village at Lat 15°24'33"N, Lon 76°35'13"E to confluence with river Krishna near village Murva Konda at Lat 15°57'20"N, Lon 78°14'30"E.
105.	National Waterway 105	<i>Udayavara River:</i> Arabian Sea Mouth at Malpe Lat 13°20'57"N, Lon 74°41'28"E to Bridge near Manipura Lat 13°17'33"N, Lon 74°46'26"E.
106.	National Waterway 106	<i>Umngot (Dwaki) River:</i> Bangladesh Border near Larbamon Lat 25°11'07"N Lon 92°0'54"E to Nongryngkoh at Lat 25°19'05"N, Lon 92°02'20"E.
107.	National Waterway 107	<i>Vaigai River:</i> Barrage near Anai Patti at Lat 10°05'19"N, Lon 77°51'10"E to Viragnoor Dam at Lat 9°53'52"N, Lon 78°10'34"E.
108.	National Waterway 108	<i>Varuna River:</i> Road bridge near Kuru at Lat 25°23'15"N, Lon 82°44'07"E to Ganga confluence at Saray Mohana, Varanasi Lat 25°19'45"N, Lon 83°02'41"E.
109.	National Waterway 109	<i>Wainganga Pranahita River System:</i> Bridge near Chandapur village at Lat 20°0'30"N, Lon 79°47'08"E to confluence of river Godavari at Kaleshwaram Lat 18°49'33"N, Lon 79°54'33"E.
110.	National Waterway 110	<i>Yamuna River:</i> Jagatpur (6km upstream of Wazirabad Barrage) Delhi Lat 28°45'28"N, Lon 77°13'50"E to confluence of Yamuna and Ganga rivers at Sangam, Allahabad at Lat 25°25'24"N, Lon 81°53'20"E.
111.	National Waterway 111	<i>Zuari River:</i> Sanvordem bridge Lat 15°16'15"N, Lon 74°07'11"E to Marmugao Port Lat 15°25'55"N, Lon 73°48'13"E.

Sd/-

Dr. G.Narayana Raju,  
Secretary to the Government of India

By order and in the name of the Governor of Gujarat

Sd/-

C. J. Gothi,  
Secretary to Government





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 23<sup>rd</sup> September, 2016.

No. RPB/237-2016/Act.-18-16-E:— The following Act of Parliamentary is republished for general information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 26<sup>th</sup> March, 2016, Chaitra 6, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 25<sup>th</sup> March, 2016 is hereby published for general information:-

THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICE) ACT, 2016

AN

[ ACT No. 18 of 2016 ]

ACT

[ 25<sup>th</sup> March, 2016 ]

*to provide for, as a good governance, efficient, transparent, and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of unique identity numbers to such individuals and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

Short title,  
extent and  
commencement.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir and save as otherwise provided in this Act, it shall also apply to any offence or contravention thereunder committed outside India by any person.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may, be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

## Definitions.

## 2. In this Act, unless the context otherwise requires,—

(a) “Aadhaar number” means an identification number issued to an individual under sub-section (3) of section 3;

(b) “Aadhaar number holder” means an individual who has been issued an Aadhaar number under this Act;

(c) “authentication” means the process by which the Aadhaar number along with demographic information or biometric information of an individual is submitted to the Central Identities Data Repository for its verification and such Repository verifies the correctness, or the lack thereof, on the basis of information available with it;

(d) “authentication record” means the record of the time of authentication and identity of the requesting entity and the response provided by the Authority thereto;

(e) “Authority” means the Unique Identification Authority of India established under sub-section (1) of section 11;

(f) “benefit” means any advantage, gift, reward, relief, or payment, in cash or kind, provided to an individual or a group of individuals and includes such other benefits as may be notified by the Central Government;

(g) “biometric information” means photograph, finger print, Iris scan, or such other biological attributes of an individual as may be specified by regulations;

(h) “Central Identities Data Repository” means a centralised database in one or more locations containing all Aadhaar numbers issued to Aadhaar number holders along with the corresponding demographic information and biometric information of such individuals and other information related thereto;

(i) “Chairperson” means the Chairperson of the Authority appointed under section 12;

(j) “core biometric information” means finger print, Iris scan, or such other biological attribute of an individual as may be specified by regulations;

(k) “demographic information” includes information relating to the name, date of birth, address and other relevant information of an individual, as may be specified by regulations for the purpose of issuing an Aadhaar number, but shall not include race, religion, caste, tribe, ethnicity, language, records of entitlement, income or medical history;

(l) “enrolling agency” means an agency appointed by the Authority or a Registrar, as the case may be, for collecting demographic and biometric information of individuals under this Act;

(m) “enrolment” means the process, as may be specified by regulations, to collect demographic and biometric information from individuals by the enrolling agencies for the purpose of issuing Aadhaar numbers to such individuals under this Act;

(n) “identity information” in respect of an individual, includes his Aadhaar number, his biometric information and his demographic information;

(o) “Member” includes the Chairperson and Member of the Authority appointed under section 12;

(p) “notification” means a notification published in the Official Gazette and the expression “notified” with its cognate meanings and grammatical variations shall be construed accordingly;

(q) “prescribed” means prescribed by rules made by the Central Government under this Act;



(r) "records of entitlement" means records of benefits, subsidies or services provided to, or availed by, any individual under any programme;

(s) "Registrar" means any entity authorised or recognised by the Authority for the purpose of enrolling individuals under this Act;

(t) "regulations" means the regulations made by the Authority under this Act;

(u) "requesting entity" means an agency or person that submits the Aadhaar number, and demographic information or biometric information, of an individual to the Central Identities Data Repository for authentication;

(v) "resident" means an individual who has resided in India for a period or periods amounting in all to one hundred and eighty-two days or more in the twelve months immediately preceding the date of application for enrolment;

(w) "service" means any provision, facility, utility or any other assistance provided in any form to an individual or a group of individuals and includes such other services as may be notified by the Central Government;

(x) "subsidy" means any form of aid, support, grant, subvention, or appropriation, in cash or kind, to an individual or a group of individuals and includes such other subsidies as may be notified by the Central Government.

## CHAPTER II

### ENROLMENT

3. (1) Every resident shall be entitled to obtain an Aadhaar number by submitting his demographic information and biometric information by undergoing the process of enrolment:

Aadhaar  
number.

Provided that the Central Government may, from time to time, notify such other category of individuals who may be entitled to obtain an Aadhaar number.

(2) The enrolling agency shall, at the time of enrolment, inform the individual undergoing enrolment of the following details in such manner as may be specified by regulations, namely:—

(a) the manner in which the information shall be used;

(b) the nature of recipients with whom the information is intended to be shared during authentication; and

(c) the existence of a right to access information, the procedure for making requests for such access, and details of the person or department in-charge to whom such requests can be made.

(3) On receipt of the demographic information and biometric information under sub-section (1), the Authority shall, after verifying the information, in such manner as may be specified by regulations, issue an Aadhaar number to such individual.

4. (1) An Aadhaar number, issued to an individual shall not be re-assigned to any other individual.

Properties of  
Aadhaar  
number.

(2) An Aadhaar number shall be a random number and bear no relation to the attributes or identity of the Aadhaar number holder.

(3) An Aadhaar number, in physical or electronic form subject to authentication and other conditions, as may be specified by regulations, may be accepted as proof of identity of the Aadhaar number holder for any purpose.

*Explanation.*— For the purposes of this sub-section, the expression "electronic form" shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.

Special measures for issuance of Aadhaar number to certain category of persons.

5. The Authority shall take special measures to issue Aadhaar number to women, children, senior citizens, persons with disability, unskilled and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house and such other categories of individuals as may be specified by regulations.

Update of certain information.

6. The Authority may require Aadhaar number holders to update their demographic information and biometric information, from time to time, in such manner as may be specified by regulations, so as to ensure continued accuracy of their information in the Central Identities Data Repository.

### CHAPTER III

#### AUTHENTICATION

Proof of Aadhaar number necessary for receipt of certain subsidies, benefits and services, etc.

7. The Central Government or, as the case may be, the State Government may, for the purpose of establishing identity of an individual as a condition for receipt of a subsidy, benefit or service for which the expenditure is incurred from, or the receipt therefrom forms part of, the Consolidated Fund of India, require that such individual undergo authentication, or furnish proof of possession of Aadhaar number or in the case of an individual to whom no Aadhaar number has been assigned, such individual makes an application for enrolment:

Provided that if an Aadhaar number is not assigned to an individual, the individual shall be offered alternate and viable means of identification for delivery of the subsidy, benefit or service.

Authentication of Aadhaar number.

8. (1) The Authority shall perform authentication of the Aadhaar number of an Aadhaar number holder submitted by any requesting entity, in relation to his biometric information or demographic information, subject to such conditions and on payment of such fees and in such manner as may be specified by regulations.

(2) A requesting entity shall—

(a) unless otherwise provided in this Act, obtain the consent of an individual before collecting his identity information for the purposes of authentication in such manner as may be specified by regulations; and

(b) ensure that the identity information of an individual is only used for submission to the Central Identities Data Repository for authentication.

(3) A requesting entity shall inform, in such manner as may be specified by regulations, the individual submitting his identity information for authentication, the following details with respect to authentication, namely:—

(a) the nature of information that may be shared upon authentication;

(b) the uses to which the information received during authentication may be put by the requesting entity; and

(c) alternatives to submission of identity information to the requesting entity.

(4) The Authority shall respond to an authentication query with a positive, negative or any other appropriate response sharing such identity information excluding any core biometric information.

Aadhaar number not evidence of citizenship or domicile, etc.

9. The Aadhaar number or the authentication thereof shall not, by itself, confer any right of, or be proof of, citizenship or domicile in respect of an Aadhaar number holder.

Central Identities Data Repository.

10. The Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations.



## CHAPTER IV

## UNIQUE IDENTIFICATION AUTHORITY OF INDIA

11. (1) The Central Government shall, by notification, establish an Authority to be known as the Unique Identification Authority of India to be responsible for the processes of enrolment and authentication and perform such other functions assigned to it under this Act.

Establishment  
of Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be in New Delhi.

(4) The Authority may, with the prior approval of the Central Government, establish its offices at other places in India.

12. The Authority shall consist of a Chairperson, appointed on part-time or full-time basis, two part-time Members, and the chief executive officer who shall be Member-Secretary of the Authority, to be appointed by the Central Government.

Composition  
of Authority.

13. The Chairperson and Members of the Authority shall be persons of ability and integrity having experience and knowledge of at least ten years in matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration.

Qualifications  
for  
appointment  
of  
Chairperson  
and Members  
of Authority.

14. (1) The Chairperson and the Members appointed under this Act shall hold office for a term of three years from the date on which they assume office and shall be eligible for re-appointment:

Term of  
office and  
other  
conditions of  
service of  
Chairperson  
and Members.

Provided that no person shall hold office as the Chairperson or Member after he has attained the age of sixty-five years.

(2) The Chairperson and every Member shall, before entering office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson or Member may—

(a) relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or

(b) be removed from his office in accordance with the provisions of section 15.

(4) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration payable to part-time Members shall be such as may be prescribed.

15. (1) The Central Government may remove from office, the Chairperson, or a Member, who—

Removal of  
Chairperson  
and Members.

(a) is, or at any time has been adjudged as insolvent;

(b) has become physically or mentally incapable of acting as the Chairperson or, as the case may be, a Member;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or, as the case may be, a Member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.

(2) The Chairperson or a Member shall not be removed under clause (b), clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard.

Restrictions  
on  
Chairperson  
or Members  
on  
employment  
after cessation  
of office.

16. The Chairperson or a Member on ceasing to hold office for any reason, shall not, without previous approval of the Central Government,—

(a) accept any employment in, or be connected with the management of any organisation, company or any other entity which has been associated with any work done or contracted out by the Authority, whether directly or indirectly, during his tenure as Chairperson or Member, as the case may be, for a period of three years from the date on which he ceases to hold office:

Provided that nothing contained in this clause shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined in clause (45) of section 2 of the Companies Act, 2013;

18 of 2013.

(b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public; or

(d) enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office.

Functions of  
Chairperson.

17. The Chairperson shall preside over the meetings of the Authority, and without prejudice to any provision of this Act, exercise and discharge such other powers and functions of the Authority as may be prescribed.

Chief  
executive  
officer.

18. (1) There shall be a chief executive officer of the Authority, not below the rank of Additional Secretary to the Government of India, to be appointed by the Central Government.

(2) The chief executive officer shall be the legal representative of the Authority and shall be responsible for—

- (a) the day-to-day administration of the Authority;
- (b) implementing the work programmes and decisions adopted by the Authority;
- (c) drawing up of proposal for the Authority's decisions and work programmes;
- (d) the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority; and
- (e) performing such other functions, or exercising such other powers, as may be specified by regulations.

(3) Every year, the chief executive officer shall submit to the Authority for approval—

- (a) a general report covering all the activities of the Authority in the previous year;
- (b) programmes of work;
- (c) the annual accounts for the previous year; and
- (d) the budget for the coming year.



(4) The chief executive officer shall have administrative control over the officers and other employees of the Authority.

19. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, including quorum at such meetings, as may be specified by regulations.

Meetings of  
Authority.

(2) The Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting and in the event of an equality of votes, the Chairperson or in his absence the presiding Member shall have a casting vote.

(4) All decisions of the Authority shall be signed by the Chairperson or any other Member or the Member-Secretary authorised by the Authority in this behalf.

(5) If any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any manner coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

20. No act or proceeding of the Authority shall be invalid merely by reason of—

Vacancies,  
etc., not to  
invalidate  
proceedings  
of Authority.

(a) any vacancy in, or any defect in the constitution of, the Authority;

(b) any defect in the appointment of a person as Chairperson or Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

21. (1) The Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required by the Authority in the discharge of its functions.

Officers and  
other  
employees of  
Authority.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority shall be such as may be specified by regulations with the approval of the Central Government.

22. On and from the establishment of the Authority—

Transfer of  
assets,  
liabilities of  
Authority.

(a) all the assets and liabilities of the Unique Identification Authority of India, established *vide* notification of the Government of India in the Planning Commission number A-43011/02/2009-Admin. I, dated the 28th January, 2009, shall stand transferred to, and vested in, the Authority.

*Explanation.*—The assets of such Unique Identification Authority of India shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such Unique Identification Authority of India and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Unique Identification Authority of India immediately before that day, for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority;

(c) all sums of money due to the said Unique Identification Authority of India immediately before that day shall be deemed to be due to the Authority; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India immediately before that day may be continued or may be instituted by or against the Authority.

Powers and  
functions of  
Authority.

23. (1) The Authority shall develop the policy, procedure and systems for issuing Aadhaar numbers to individuals and perform authentication thereof under this Act.

(2) Without prejudice to sub-section (1), the powers and functions of the Authority, *inter alia*, include—

(a) specifying, by regulations, demographic information and biometric information required for enrolment and the processes for collection and verification thereof;

(b) collecting demographic information and biometric information from any individual seeking an Aadhaar number in such manner as may be specified by regulations;

(c) appointing of one or more entities to operate the Central Identities Data Repository;

(d) generating and assigning Aadhaar numbers to individuals;

(e) performing authentication of Aadhaar numbers;

(f) maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;

(g) omitting and deactivating of an Aadhaar number and information relating thereto in such manner as may be specified by regulations;

(h) specifying the manner of use of Aadhaar numbers for the purposes of providing or availing of various subsidies, benefits, services and other purposes for which Aadhaar numbers may be used;

(i) specifying, by regulations, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof;

(j) establishing, operating and maintaining of the Central Identities Data Repository;

(k) sharing, in such manner as may be specified by regulations, the information of Aadhaar number holders, subject to the provisions of this Act;

(l) calling for information and records, conducting inspections, inquiries and audit of the operations for the purposes of this Act of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this Act;

(m) specifying, by regulations, various processes relating to data management, security protocols and other technology safeguards under this Act;

(n) specifying, by regulations, the conditions and procedures for issuance of new Aadhaar number to existing Aadhaar number holder;

(o) levying and collecting the fees or authorising the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under this Act in such manner as may be specified by regulations;

(p) appointing such committees as may be necessary to assist the Authority in discharge of its functions for the purposes of this Act;

(q) promoting research and development for advancement in biometrics and related areas, including usage of Aadhaar numbers through appropriate mechanisms;



(r) evolving of, and specifying, by regulations, policies and practices for Registrars, enrolling agencies and other service providers;

(s) setting up facilitation centres and grievance redressal mechanism for redressal of grievances of individuals, Registrars, enrolling agencies and other service providers;

(t) such other powers and functions as may be prescribed.

(3) The Authority may,—

(a) enter into Memorandum of Understanding or agreement, as the case may be, with the Central Government or State Governments or Union territories or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing or processing of information or delivery of Aadhaar numbers to individuals or performing authentication;

(b) by notification, appoint such number of Registrars, engage and authorise such agencies to collect, store, secure, process information or do authentication or perform such other functions in relation thereto,

as may be necessary for the purposes of this Act.

(4) The Authority may engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by contract.

#### CHAPTER V

##### GRANTS, ACCOUNTS AND AUDIT AND ANNUAL REPORT

24. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Grants by  
Central  
Government.

25. The fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India.

Other fees  
and revenues.

26. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and  
audit.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts, and in particular, shall have the right to demand production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

27. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

Returns and  
annual report,  
etc.

(2) The Authority shall prepare, once in every year, and in such form and manner and at such time as may be prescribed, an annual report giving—

- (a) a description of all the activities of the Authority for the previous years;
- (b) the annual accounts for the previous year; and
- (c) the programmes of work for coming year.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

#### CHAPTER VI

##### PROTECTION OF INFORMATION

Security and confidentiality of information.

28. (1) The Authority shall ensure the security of identity information and authentication records of individuals.

(2) Subject to the provisions of this Act, the Authority shall ensure confidentiality of identity information and authentication records of individuals.

(3) The Authority shall take all necessary measures to ensure that the information in the possession or control of the Authority, including information stored in the Central Identities Data Repository, is secured and protected against access, use or disclosure not permitted under this Act or regulations made thereunder, and against accidental or intentional destruction, loss or damage.

(4) Without prejudice to sub-sections (1) and (2), the Authority shall—

(a) adopt and implement appropriate technical and organisational security measures;

(b) ensure that the agencies, consultants, advisors or other persons appointed or engaged for performing any function of the Authority under this Act, have in place appropriate technical and organisational security measures for the information; and

(c) ensure that the agreements or arrangements entered into with such agencies, consultants, advisors or other persons, impose obligations equivalent to those imposed on the Authority under this Act, and require such agencies, consultants, advisors and other persons to act only on instructions from the Authority.

(5) Notwithstanding anything contained in any other law for the time being in force, and save as otherwise provided in this Act, the Authority or any of its officers or other employees or any agency that maintains the Central Identities Data Repository shall not, whether during his service or thereafter, reveal any information stored in the Central Identities Data Repository or authentication record to anyone:

Provided that an Aadhaar number holder may request the Authority to provide access to his identity information excluding his core biometric information in such manner as may be specified by regulations.

Restriction on sharing information.

29. (1) No core biometric information, collected or created under this Act, shall be—

(a) shared with anyone for any reason whatsoever; or

(b) used for any purpose other than generation of Aadhaar numbers and authentication under this Act.

(2) The identity information, other than core biometric information, collected or created under this Act may be shared only in accordance with the provisions of this Act and in such manner as may be specified by regulations.

(3) No identity information available with a requesting entity shall be—

(a) used for any purpose, other than that specified to the individual at the time of submitting any identity information for authentication; or



(b) disclosed further, except with the prior consent of the individual to whom such information relates.

(4) No Aadhaar number or core biometric information collected or created under this Act in respect of an Aadhaar number holder shall be published, displayed or posted publicly, except for the purposes as may be specified by regulations.

21 of 2000. 30. The biometric information collected and stored in electronic form, in accordance with this Act and regulations made thereunder, shall be deemed to be "electronic record" and "sensitive personal data or information", and the provisions contained in the Information Technology Act, 2000 and the rules made thereunder shall apply to such information, in addition to, and to the extent not in derogation of the provisions of this Act.

Biometric information deemed to be sensitive personal information.

*Explanation.*— For the purposes of this section, the expressions—

21 of 2000. (a) "electronic form" shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000;

21 of 2000. (b) "electronic record" shall have the same meaning as assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000;

21 of 2000. (c) "sensitive personal data or information" shall have the same meaning as assigned to it in clause (iii) of the *Explanation* to section 43A of the Information Technology Act, 2000.

31. (1) In case any demographic information of an Aadhaar number holder is found incorrect or changes subsequently, the Aadhaar number holder shall request the Authority to alter such demographic information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

Alteration of demographic information or biometric information.

(2) In case any biometric information of Aadhaar number holder is lost or changes subsequently for any reason, the Aadhaar number holder shall request the Authority to make necessary alteration in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

(3) On receipt of any request under sub-section (1) or sub-section (2), the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such Aadhaar number holder and intimate such alteration to the concerned Aadhaar number holder.

(4) No identity information in the Central Identities Data Repository shall be altered except in the manner provided in this Act or regulations made in this behalf.

32. (1) The Authority shall maintain authentication records in such manner and for such period as may be specified by regulations.

Access to own information and records of requests for authentication.

(2) Every Aadhaar number holder shall be entitled to obtain his authentication record in such manner as may be specified by regulations.

(3) The Authority shall not, either by itself or through any entity under its control, collect, keep or maintain any information about the purpose of authentication.

33. (1) Nothing contained in sub-section (2) or sub-section (5) of section 28 or sub-section (2) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made pursuant to an order of a court not inferior to that of a District Judge:

Disclosure of information in certain cases.

Provided that no order by the court under this sub-section shall be made without giving an opportunity of hearing to the Authority.

(2) Nothing contained in sub-section (2) or sub-section (5) of section 28 and clause (b) of sub-section (1), sub-section (2) or sub-section (3) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication

*Explanation.*—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Act to apply for offence or contravention committed outside India.

44. (1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality.

(2) For the purposes of sub-section (1), the provisions of this Act shall apply to any offence or contravention committed outside India by any person, if the act or conduct constituting the offence or contravention involves any data in the Central Identities Data Repository.

Power to investigate offences.

45. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under this Act.

2 of 1974.

Penalties not to interfere with other punishments.

46. No penalty imposed under this Act shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

Cognizance of offences.

47. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Authority or any officer or person authorised by it.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

#### CHAPTER VIII

##### MISCELLANEOUS

Power of Central Government to supersede Authority.

48. (1) If, at any time, the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that a public emergency exists,

the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1), superseding the Authority,—

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the



Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other Members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

49. The Chairperson, Members, officers and other employees of the Authority shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members,  
officers, etc.,  
to be public  
servants.

50. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act be bound by such directions on questions of policy, as the Central Government may give, in writing to it, from time to time:

Power of  
Central  
Government  
to issue  
directions.

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section:

Provided further that nothing in this section shall empower the Central Government to issue directions pertaining to technical or administrative matters undertaken by the Authority.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

51. The Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 54) as it may deem necessary.

Delegation.

52. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rule or regulation made thereunder.

Protection of  
action taken  
in good faith.

53. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power of  
Central  
Government  
to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which and the authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under sub-section (2) of section 14;

(b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-section (4) of section 14;

(c) the other powers and functions of the Chairperson of the Authority under section 17;

(d) the other powers and functions of the Authority under clause (1) of sub-section (2) of section 23;

(e) the form of annual statement of accounts to be prepared by Authority under sub-section (1) of section 26;

(f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-section (1) of section 27;

(g) the form and the manner and the time at which the Authority shall furnish annual report under sub-section (2) of section 27;

(h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

Power of  
Authority to  
make  
regulations

54. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the biometric information under clause (g) and the demographic information under clause (k), and the process of collecting demographic information and biometric information from the individuals by enrolling agencies under clause (m) of section 2;

(b) the manner of verifying the demographic information and biometric information for issue of Aadhaar number under sub-section (3) of section 3;

(c) the conditions for accepting an Aadhaar number as proof of identity of the Aadhaar number holder under sub-section (3) of section 4;

(d) the other categories of individuals under section 5 for whom the Authority shall take special measures for allotment of Aadhaar number;

(e) the manner of updating biometric information and demographic information under section 6;

(f) the procedure for authentication of the Aadhaar number under section 8;

(g) the other functions to be performed by the Central Identities Data Repository under section 10;

(h) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it, including the quorum, under sub-section (1) of section 19;

(i) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-section (2) of section 21;

(j) the demographic information and biometric information under clause (a) and the manner of their collection under clause (b) of sub-section (2) of section 23;

(k) the manner of maintaining and updating the information of individuals in the Central Identities Data Repository under clause (f) of sub-section (2) of section 23;

(l) the manner of omitting and deactivating an Aadhaar number and information relating thereto under clause (g) of sub-section (2) of section 23;

(m) the manner of use of Aadhaar numbers for the purposes of providing or availing of various subsidies, benefits, services and other purposes for which Aadhaar numbers may be used under clause (h) of sub-section (2) of section 23;

(n) the terms and conditions for appointment of Registrars, enrolling agencies and other service providers and the revocation of appointments thereof under clause (i) of sub-section (2) of section 23;

(o) the manner of sharing information of Aadhaar number holder under clause (k) of sub-section (2) of section 23;



(p) various processes relating to data management, security protocol and other technology safeguards under clause (m) of sub-section (2) of section 23;

(q) the procedure for issuance of new Aadhaar number to existing Aadhaar number holder under clause (n) of sub-section (2) of section 23;

(r) manner of authorising Registrars, enrolling agencies or other service providers to collect such fees for services provided by them under clause (o) of sub-section (2) of section 23;

(s) policies and practices to be followed by the Registrar, enrolling agencies and other service providers under clause (r) of sub-section (2) of section 23;

(t) the manner of accessing the identity information by the Aadhaar number holder under the proviso to sub-section (5) of section 28;

(u) the manner of sharing the identity information, other than core biometric information, collected or created under this Act under sub-section (2) of section 29;

(v) the manner of alteration of demographic information under sub-section (1) and biometric information under sub-section (2) of section 31;

(w) the manner of and the time for maintaining the request for authentication and the response thereon under sub-section (1), and the manner of obtaining, by the Aadhaar number holder, the authentication records under sub-section (2) of section 32;

(x) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

55. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both the Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Laying of rules and regulations before Parliament.

56. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Application of other laws not barred.

57. Nothing contained in this Act shall prevent the use of Aadhaar number for establishing the identity of an individual for any purpose, whether by the State or any body corporate or person, pursuant to any law, for the time being in force, or any contract to this effect:

Act not to prevent use of Aadhaar number for other purposes under law.

Provided that the use of Aadhaar number under this section shall be subject to the procedure and obligations under section 8 and Chapter VI.

58. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Savings.

59. Anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/2009-Admin. I, dated the 28th January, 2009, or by the Department of Electronics and Information Technology under the Cabinet Secretariat Notification bearing notification number S.O. 2492(E), dated the 12th September, 2015, as the case may be, shall be deemed to have been validly done or taken under this Act.

Sd/-

Dr. G. Narayana Raju,  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,  
Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII ] FRIDAY, SEPTEMBER 23, 2016/ASVINA 1, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 23<sup>rd</sup> September, 2016.

No. RPB/239-2016/Act.-24-16-E:— The following Act of Parliament is republished for general information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 9<sup>th</sup> May, 2016, Vaishakh 19, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 6<sup>th</sup> May, 2016 is hereby published for general information:-

THE CONSTITUTION (SCHEDULED CASTES) ORDER  
(AMENDMENT) ACT, 2016

AN

[ ACT No. 24 of 2016 ]

ACT

[ 6<sup>th</sup> May, 2016 ]

*further to amend the Constitution (Scheduled Castes) Order, 1950.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 2016.

Short title, and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

Amendment of  
constitution  
(Schedule  
Castes) order,  
1950.

2. In the Schedule to the Constitution (Scheduled Castes) Order, 1950,—

(a) in Part V.—*Haryana*.—

(i) after entry 1, insert,—

"1A. Aheria, Aheri, Hari, Heri, Thori, Turi";

(ii) after entry 29, insert,—

"29A. Rai Sikh";

(b) in Part VIII.—*Kerala*, for entries 36 and 37, 'substitute —

"36. Malayan (in the areas comprising the Kannur, Kasaragode, Kozhikode and Wayanad districts)

37. Mannan, Pathiyan, Perumannan, Peruvannan, Vannan, Velan";

(c) in Part XIII.—*Odisha*, omit entries 8 and 49;

(d) in Part XIX.—*West Bengal*, for entry 60, substitute—

"60. Chain";

(e) in Part XXIII.—*Chhattisgarh*, for entry 25, substitute—

"25. Ghasi, Ghasia, Sais, Sahis, Sarathi, Soot-Sarathi, Thanwar".

**Dr. G. Narayana Raju,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**C. J. Gothi,**  
Secretary to Government.





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# The Gujarat Government Gazette

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## PART - VI

**Acts of Parliament and Ordinances promulgated by the President.**

**Legislative and Parliamentary Affairs Department**

Sachivalaya, Gandhinagar, 23<sup>rd</sup> September, 2016.

**No. RPB/239-2016/Act.-25-16-E:—** The following Act of Parliament is republished for general information:-

**GOVERNMENT OF INDIA**

**MINISTRY OF LAW AND JUSTICE**

**Legislative Department**

New Delhi, the 9<sup>th</sup> May, 2016, Vaishakh 19, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 6<sup>th</sup> May, 2016 is hereby published for general information:-

**THE MINES AND MINERALS (DEVELOPMENT AND REGULATION)  
AMENDMENT ACT, 2016**

AN

[ ACT No. 25 of 2016 ]

ACT

[ 6<sup>th</sup> May, 2016 ]

*further to amend the Mines and Minerals (Development and Regulation)  
Act, 1957.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Mines and Minerals (Development and Regulation) Amendment Act, 2016. **Short title.**

67 of 1957

2. In section 3 of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the principal Act), for clause (a), the following clauses shall be substituted, namely:— **Amendment of section 3.**

'(a) "leased area" means the area specified in the mining lease within which mining operations can be undertaken and includes the non-mineralised area required and approved for the activities falling under the definition of mine as referred to in clause (i);

(aa) "minerals" includes all minerals except mineral oils;'

Amendment of  
section 12A.

3. In section 12A of the principal Act, in sub-section (6), the following shall be inserted, namely:—

'Provided that where a mining lease has been granted otherwise than through auction and where mineral from such mining lease is being used for captive purpose, such mining lease may be permitted to be transferred subject to compliance of such terms and conditions and payment of such amount or transfer charges as may be prescribed.

*Explanation.*—For the purposes of this proviso, the expression "used for captive purpose" shall mean the use of the entire quantity of mineral extracted from the mining lease in a manufacturing unit owned by the lessee.'

Amendment of  
section 13.

4. In section 13 of the principal Act, in sub-section (2), after clause (qqj), the following clause shall be inserted, namely:—

"(qqja) the terms and conditions and amount or transfer charges under the proviso to sub-section (6) of section 12A;"

Dr. G. Narayana Raju,  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. Gothi,  
Secretary to Government.

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# The Gujarat Government Gazette

**EXTRAORDINARY**  
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## PART - VI

Acts of Parliament and Ordinances promulgated by the President.

**Legislative and Parliamentary Affairs Department**

Sachivalaya, Gandhinagar, 27<sup>th</sup> September, 2016.

**No. RPB/239-2016/Act.-23-16-E:—** The following Act of Parliament is republished for general information:-

**GOVERNMENT OF INDIA**

**MINISTRY OF LAW AND JUSTICE**

**Legislative Department**

New Delhi, the 9<sup>th</sup> May, 2016, Vaishakha 19, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 6<sup>th</sup> May, 2016 is hereby published for general information:-

**THE REPEALING AND AMENDING ACT, 2016**

AN

[ ACT No. 23 of 2016 ]

ACT

[ 6<sup>th</sup> May, 2016 ]

*to repeal certain enactments and amend certain other enactments.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

- |  |                                  |
|--|----------------------------------|
| 1. This Act may be called the Repealing and Amending Act, 2016.  | Short title,                     |
| 2. The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.                                    | Repeal of certain enactments.    |
| 3. The enactments specified in the Second Schedule are hereby amended to the extent Amendment and in the manner mentioned in the fourth column thereof.        | Amendment of certain enactments. |
| 4. The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to; | Savings.                         |

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

#### THE FIRST SCHEDULE

(See section 2)

#### REPEALS

Year	No.	Short title	Extent of repeal
1	2	3	4
1863	16	The Excise (Spirits) Act, 1863	So much as is not repealed.
1874	4	The Foreign Recruiting Act, 1874	So much as is not repealed.
1875	18	The Indian Law Reports Act, 1875	So much as is not repealed.
1879	6	The Elephants Preservation Act, 1879	So much as is not repealed.
1890	13	The Excise (Malt Liquors) Act, 1890	The whole.
1898	3	The Lepers Act, 1898	The whole.
1902	4	The Indian Tramways Act, 1902	The whole.
1912	8	The Wild Birds and Animals Protection Act, 1912	So much as is not repealed.
1913	6	The Mussalman Wakf Validating Act, 1913	The whole.
1916	7	The Indian Medical Degrees Act, 1916	The whole.
1919	1	The Local Authorities Pensions and Gratuities Act, 1919	The whole.
1930	32	The Mussalman Wakf Validating Act, 1930	The whole.
1933	2	The Children (Pledging of Labour) Act, 1933	The whole.
1936	18	The Red Cross Society (Allocation of Property) Act, 1936	The whole.
1936	22	The Indian Companies (Amendment) Act, 1936	The whole.
1938	24	The Employers' Liability Act, 1938	The whole.
1940	12	The Income-tax Law Amendment Act, 1940	So much as is not repealed.



1	2	3	4
1959	29	The Public Wakfs (Extension of Limitation) Act, 1959	The whole.
1960	16	The Estate Duty (Amendment) Act, 1960	So much as is not repealed.
1960	18	The Indian Boilers (Amendment) Act, 1960	So much as is not repealed.
1960	28	The Taxation Laws (Amendment) Act, 1960	The whole.
1960	45	The Indian Museum (Amendment) Act, 1960	So much as is not repealed.
1960	54	The Railway Passenger Fares (Amendment) Act, 1960	The whole.
1960	65	The Companies (Amendment) Act, 1960	So much as is not repealed.
1961	7	The Banking Companies (Amendment) Act, 1961	So much as is not repealed.
1961	36	The Newspaper (Price and Page) Continuance Act, 1961	The whole.
1961	55	The Sugar (Regulation of Production) Act, 1961	The whole.
1962	17	The Air Corporations (Amendment) Act, 1962	So much as is not repealed.
1962	43	The Companies (Amendment) Act, 1962	The whole.
1962	56	The State-Associated Banks (Miscellaneous Provisions) Act, 1962	So much as is not repealed.
1962	59	The Personal Injuries (Emergency Provisions) Act, 1962	The whole.
1963	21	The Compulsory Deposit Scheme Act, 1963	The whole.
1963	37	The Personal Injuries (Compensation Insurance) Act, 1963	The whole.
1963	53	The Companies (Amendment) Act, 1963	The whole.
1964	32	The Companies (Amendment) Act, 1964	The whole.
1965	23	The Banking Laws (Application to Co-operative Societies) Act, 1965	So much as is not repealed.
1965	31	The Companies (Amendment) Act, 1965	The whole.
1966	21	The Merchant Shipping (Amendment) Act, 1966	So much as is not repealed.
1966	30	The Electricity (Supply) Amendment Act, 1966	So much as is not repealed.
1966	37	The Companies (Second Amendment) Act, 1966	The whole.
1967	14	The Essential Commodities (Amendment) Act, 1967	So much as is not repealed.
1967	25	The Standards of Weights and Measures (Extension to Kohima and Mokokchung Districts) Act, 1967	The whole.
1968	60	The State Agricultural Credit Corporations Act, 1968	The whole.

1	2	3	4
1969	17	The Companies (Amendment) Act, 1969	So much as is not repealed.
1969	22	The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969	The whole.
1969	23	The Coal Bearing Areas (Acquisition and Development) Amendment Act, 1969	So much as is not repealed.
1969	28	The Central Sales Tax (Amendment) Act, 1969	So much as is not repealed.
1969	37	The Delhi High Court (Amendment) Act, 1969	So much as is not repealed.
1969	38	The Wakf (Amendment) Act, 1969	So much as is not repealed.
1970	24	The Petroleum (Amendment) Act, 1970	So much as is not repealed.
1970	25	The Merchant Shipping (Amendment) Act, 1970	So much as is not repealed.
1970	51	The Central Labour Laws (Extension to Jammu and Kashmir) Act, 1970	The whole.
1971	63	The Jayanti Shipping Company (Acquisition of Shares) Act, 1971	The whole.
1971	64	The Coking Coal Mines (Emergency Provisions) Act, 1971	The whole.
1972	58	The Indian Copper Corporation (Acquisition of Undertaking) Act, 1972	So much as is not repealed.
1972	72	The Sick Textile Undertakings (Taking Over of Management) Act, 1972	The whole.
1973	15	The Coal Mines (Taking Over of Management) Act, 1973	The whole.
1973	62	The Konkan Passenger Ships (Acquisition) Act, 1973	The whole.
1974	4	The Esso (Acquisition of Undertakings in India) Act, 1974	The whole.
1974	37	The Additional Emoluments (Compulsory Deposit) Act, 1974	The whole.
1976	2	The Burmah Shell (Acquisition of Undertakings in India) Act, 1976	The whole.
1976	97	The Burn Company and Indian Standard Wagon Company (Nationalisation) Act, 1976	The whole.
1976	98	The Laxmirattan and Atherton West Cotton Mills (Taking Over of Management) Act, 1976	The whole.
1976	106	The Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1976	So much as is not repealed.
1977	17	The Caltex [Acquisition of Shares of Caltex Oil Refining (India) Limited and of the Undertakings in India of Caltex (India) Limited] Act, 1977	The whole.



1	2	3	4
1978	21	The Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978	The whole.
1979	28	The Kosangas Company (Acquisition of Undertaking) Act, 1979	The whole.
1980	64	The Maruti Limited (Acquisition and Transfer of Undertakings) Act, 1980	The whole.
1981	18	The Essential Commodities (Special Provisions) Act, 1981	The whole.
1981	19	The Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Amendment) Act, 1981	So much as is not repealed.
1981	41	The Burmah Oil Company [Acquisition of Shares of Oil India Limited and of the Undertakings in India of Assam Oil Company Limited and the Burmah Oil Company (India Trading) Limited] Act, 1981	The whole.
1982	26	The Prevention of Cruelty to Animals (Amendment) Act, 1982	So much as is not repealed.
1982	31	The Estate Duty (Amendment) Act, 1982	The whole.
1982	38	The Payment of Wages (Amendment) Act, 1982	The whole.
1982	50	The Amritsar Oil Works (Acquisition and Transfer of Undertakings) Act, 1982	The whole.
1982	58	The Central Excise Laws (Amendment and Validation) Act, 1982	The whole.
1982	68	The Drugs and Cosmetics (Amendment) Act, 1982	So much as is not repealed.
1983	29	The National Oilseeds and Vegetable Oils Development Board Act, 1983	The whole.
1983	40	The Textile Undertakings (Taking Over of Management) Act, 1983	The whole.
1983	44	The Indian Railways (Amendment) Act, 1983	So much as is not repealed.
1984	1	The Banking Laws (Amendment) Act, 1983	The whole.
1984	16	The Ganesh Flour Mills Company Limited (Acquisition and Transfer of Undertakings) Act, 1984	The whole.
1984	26	The Payment of Gratuity (Second Amendment) Act, 1984	So much as is not repealed.
1984	33	The Mogul Line Limited (Acquisition of Shares) Act, 1984	The whole.
1984	34	The Essential Commodities (Amendment) Act, 1984	The whole.
1984	38	The Delhi Development (Amendment) Act, 1984	The whole.
1984	45	The Employees' State Insurance (Amendment) Act, 1984	So much as is not repealed.

1	2	3	4
1984	53	The Estate Duty (Amendment) Act, 1984	The whole.
1984	54	The Levy Sugar Price Equalisation Fund (Amendment) Act, 1984	So much as is not repealed.
1984	59	The University Grants Commission (Amendment) Act, 1984	So much as is not repealed.
1984	63	The Dowry Prohibition (Amendment) Act, 1984	The whole.
1984	67	The Taxation Laws (Amendment) Act, 1984	The whole.
1985	3	The General Insurance Business (Nationalisation) Amendment Act, 1985	So much as is not repealed.
1985	83	The Futwah-Islampur Light Railway Line (Nationalisation) Act, 1985	The whole.
1986	33	The Merchant Shipping (Amendment) Act, 1986	So much as is not repealed.
1986	66	The Shipping Development Fund Committee (Abolition) Act, 1986	The whole.
1987	27	The National Security (Amendment) Act, 1987	The whole.
1987	43	The Constitution (Scheduled Tribes) Order (Amendment) Act, 1987	The whole.
1989	3	The Direct Tax Laws (Amendment) Act, 1989	The whole.
1989	29	The Employees' State Insurance (Amendment) Act, 1989	So much as is not repealed.
1991	2	The Taxation Laws (Amendment) Act, 1991	The whole except section 6.
1991	34	The Consumer Protection (Amendment) Act, 1991	So much as is not repealed.
1991	44	The Wildlife (Protection) Amendment Act, 1991	So much as is not repealed.
1991	60	The Delhi High Court (Amendment) Act, 1991	So much as is not repealed.
1993	49	The Betwa River Board (Amendment) Act, 1993	So much as is not repealed.
1994	27	The Punjab Gram Panchayat, Samitis and Zilla Parishad (Chandigarh Repeal) Act, 1994	The whole.
1999	2	The Cotton Ginning and Pressing Factories (Repeal) Act, 1998	The whole.
1999	4	The Railway Claims Tribunal (Amendment) Act, 1998	The whole.
1999	11	The Income-tax (Second Amendment) Act, 1998	The whole.
1999	17	The Patents (Amendment) Act, 1999	The whole.
1999	21	The Companies (Amendment) Act, 1999	The whole.
1999	28	The Income-tax (Amendment) Act, 1999	The whole.
1999	38	The Mines and Minerals (Regulation and Development) Amendment Act, 1999	The whole.



1	2	3	4
2000	2	The Telecom Regulatory Authority of India (Amendment) Act, 2000	The whole.
2000	19	The Cotton Textiles Cess (Repeal) Act, 2000	The whole.
2000	24	The Indian Companies (Foreign Interests) and the Companies (Temporary Restrictions on Dividends) Repeal Act, 2000	The whole.
2000	25	The Cotton Cloth (Repeal) Act, 2000	The whole.
2000	26	The Iron and Steel (Amalgamation and Takeover Laws) Repeal Act, 2000	The whole.
2000	27	The Motor Vehicles (Amendment) Act, 2000	The whole.
2000	31	The Army and Air Force (Disposal of Private Property) Amendment Act, 2000	The whole.
2000	32	The Indian Power Alcohol (Repeal) Act, 2000	The whole.
2000	33	The All-India Institute of Medical Sciences (Amendment) Act, 2000	The whole.
2000	36	The Cable Television Networks (Regulation) Amendment Act, 2000	The whole.
2000	38	The Rehabilitation Council of India (Amendment) Act, 2000	The whole.
2000	46	The Workmen's Compensation (Amendment) Act, 2000	The whole.
2000	47	The Passport (Entry into India) Amendment Act, 2000	The whole.
2000	51	The Aircraft (Amendment) Act, 2000	The whole.
2000	53	The Companies (Amendment) Act, 2000	The whole.
2001	1	The Taxation Laws (Amendment) Act, 2000	The whole except section 5.
2001	4	The Taxation Laws (Amendment) Act, 2001	The whole except section 8.
2001	11	The Insurance Laws (Transfer of Business and Emergency Provisions) Repeal Act, 2001	The whole.
2001	17	The U.P. Sugarcane Cess (Validation) Repeal Act, 2001	The whole.
2001	18	The Post-Graduate Institute of Medical Education and Research, Chandigarh (Amendment) Act, 2001	The whole.
2001	20	The Banking Companies (Legal Practitioners' Clients' Accounts) Repeal Act, 2001	The whole.
2001	21	The Electricity Regulatory Commissions (Amendment) Act, 2001	The whole.
2001	28	The Live-stock Importation (Amendment) Act, 2001	The whole.
2001	31	The Trade Unions (Amendment) Act, 2001	The whole.
2001	32	The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2001	The whole.
2001	34	The Indian Medical Council (Amendment) Act, 2001	The whole.

1	2	3	4
2001	35	The Sugarcane Cess (Validation) Repeal Act, 2001	The whole.
2001	44	The Salaries and Allowances of Ministers (Amendment) Act, 2001	The whole.
2001	55	The National Commission for Safai Karamcharis (Amendment) Act, 2001	The whole.
2001	56	The Cine-workers Welfare Fund (Amendment) Act, 2001	The whole.
2001	57	The Companies (Amendment) Act, 2001	The whole.
2002	13	The Jute Manufactures Cess (Amendment) Act, 2002	The whole.
2002	17	The Passports (Amendment) Act, 2002	The whole.
2002	24	The All-India Institute of Medical Sciences (Amendment) Act, 2002	The whole.
2002	25	The Constitution (Scheduled Castes) Order (Amendment) Act, 2002	The whole.
2002	32	The Constitution (Scheduled Castes and Scheduled Tribes) Orders (Amendment) Act, 2002	The whole.
2002	44	The Coast Guard (Amendment) Act, 2002	The whole.
2002	45	The National Co-operative Development Corporation (Amendment) Act, 2002	The whole.
2002	50	The Petroleum (Berar Extension) Repeal Act, 2002	The whole.
2002	61	The Constitution (Scheduled Castes) Orders (Second Amendment) Act, 2002	The whole.
2002	63	The Merchant Shipping (Amendment) Act, 2002	The whole.
2002	64	The Medical Termination of Pregnancy (Amendment) Act, 2002	The whole.
2003	1	The Companies (Amendment) Act, 2002	The whole.
2003	14	The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002	The whole.
2003	16	The Wildlife (Protection) (Amendment) Act, 2002	The whole.
2003	19	The Water (Prevention and Control of Pollution) Cess (Amendment) Act, 2003	The whole.
2003	29	The Banking Service Commission (Repeal) Act, 2003	The whole.
2003	38	The Infant Milk Substitutes, Feeding Bottles and Infant Food (Regulation of Production, Supply and Distribution) Amendment Act, 2003	The whole.
2003	43	The Airports Authority of India (Amendment) Act, 2003	The whole.
2003	47	The Constitution (Scheduled Tribes) Order (Amendment) Act, 2003	The whole.
2003	52	The Railway Protection Force (Amendment) Act, 2003	The whole.



1	2	3	4
2003	54	The Taxation Laws (Amendment) Act, 2003	The whole.
2003	56	The Railways (Amendment) Act, 2003	The whole.
2003	57	The Electricity (Amendment) Act, 2003	The whole.
2004	5	The Indian Council of World Affairs (Amendment) Act, 2003	The whole.
2004	8	The Indian Telegraph (Amendment) Act, 2003	The whole.
2004	25	The Customs and Central Excise Laws (Repeal) Act, 2004	The whole.
2005	15	The Patents (Amendment) Act, 2005	The whole.
2005	23	The Navy (Amendment) Act, 2005	The whole.
2005	41	The Payment of Wages (Amendment) Act, 2005	The whole.
2005	47	The Railways (Amendment) Act, 2005	The whole.
2005	55	The Taxation Laws (Amendment) Act, 2005	The whole.
2006	7	The Cost and Works Accountants (Amendment) Act, 2006	The whole.
2006	8	The Company Secretaries (Amendment) Act, 2006	The whole.
2006	9	The Chartered Accountants (Amendment) Act, 2006	The whole.
2006	23	The Companies (Amendment) Act, 2006	The whole.
2006	33	The Juvenile Justice (Care and Protection of Children) Amendment Act, 2006	The whole.
2006	39	The Wildlife (Protection) Amendment Act, 2006	The whole.
2006	42	The Central Silk Board (Amendment) Act, 2006	The whole.
2006	48	The Constitution (Scheduled Tribes) Order Amendment Act, 2006	The whole.
2006	57	The Indian Telegraph (Amendment) Act, 2006	The whole.
2007	4	The Commissions for Protection of Child Rights (Amendment) Act, 2006	The whole.
2007	25	The Cable Television Networks (Regulation) Amendment Act, 2007	The whole.
2007	26	The Electricity (Amendment) Act, 2007	The whole.
2007	31	The Constitution (Scheduled Castes) Order (Amendment) Act, 2007	The whole.
2007	36	The Apprentices (Amendment) Act, 2007	The whole.
2007	38	The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Act, 2007	The whole.
2007	42	The All-India Institute of Medical Sciences and the Post-Graduate Institute of Medical Education and Research (Amendment) Act, 2007	The whole.
2007	44	The Aircraft (Amendment) Act, 2007	The whole.
2007	45	The Payment of Bonus (Amendment) Act, 2007	The whole.
2007	49	The Indian Boilers (Amendment) Act, 2007	The whole.

1	2	3	4
2008	11	The Railways (Amendment) Act, 2008	The whole.
2008	12	The Prasar Bharati (Broadcasting Corporation of India) Amendment Act, 2008	The whole.
2008	13	The Food Safety and Standards (Amendment) Act, 2008	The whole.
2008	14	The Constitution (Scheduled Tribes) Order (Amendment) Act, 2008	The whole.
2008	15	The Maternity Benefit (Amendment) Act, 2008	The whole.
2008	26	The Drugs and Cosmetics (Amendment) Act, 2008	The whole.
2009	2	The Constitution (Scheduled Tribes) (Union Territories) Order (Amendment) Act, 2008	The whole.
2009	3	The Post-Graduate Institute of Medical Education and Research, Chandigarh (Amendment) Act, 2008	The whole.
2009	10	The Information Technology (Amendment) Act, 2008	The whole.
2009	28	The Carriage by Air (Amendment) Act, 2009	The whole.
2009	34	The Metro Railways (Amendment) Act, 2009	The whole.
2009	45	The Workmen's Compensation (Amendment) Act, 2009	The whole.
2009	46	The National Rural Employment Guarantee (Amendment) Act, 2009	The whole.
2009	47	The Payment of Gratuity (Amendment) Act, 2009	The whole.
2010	2	The Salaries and Allowances of Ministers (Amendment) Act, 2009	The whole.
2010	15	The Payment of Gratuity (Amendment) Act, 2010	The whole.
2010	17	The Plantations Labour (Amendment) Act, 2010	The whole.
2010	18	The Employees' State Insurance (Amendment) Act, 2010	The whole.
2010	24	The Industrial Disputes (Amendment) Act, 2010	The whole.
2010	25	The Foreign Trade (Development and Regulation) Amendment Act, 2010	The whole.
2010	26	The Securities and Insurance Laws (Amendment and Validation) Act, 2010	The whole.
2010	28	The Energy Conservation (Amendment) Act, 2010	The whole.
2010	32	The Indian Medical Council (Amendment) Act, 2010	The whole.
2010	34	The Mines and Minerals (Development and Regulation) Amendment Act, 2010	The whole.
2010	35	The Essential Commodities (Amendment) Act, 2010	The whole.
2011	10	The Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry (Amendment) Act, 2011	The whole.



1	2	3	4
2011	12	The Juvenile Justice (Care and Protection of Children) Amendment Act, 2011	The whole.
2011	13	The Indian Medical Council (Amendment) Act, 2011	The whole.
2011	18	The National Council for Teacher Education (Amendment) Act, 2011	The whole.
2011	21	The Cable Television Networks (Regulation) Amendment Act, 2011	The whole.
2012	1	The Damodar Valley Corporation (Amendment) Act, 2011	The whole.
2012	2	The Constitution (Scheduled Tribes) Order (Amendment) Act, 2011	The whole.
2012	3	The Chartered Accountants (Amendment) Act, 2011	The whole.
2012	4	The Company Secretaries (Amendment) Act, 2011	The whole.
2012	6	The Prasar Bharati (Broadcasting Corporation of India) Amendment Act, 2011	The whole.
2012	9	The Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Amendment Act, 2011	The whole.
2012	10	The Cost and Works Accountants (Amendment) Act, 2011	The whole.
2012	20	The Indian Medical Council (Amendment) Act, 2012	The whole.
2012	24	The Constitution (Scheduled Tribes) Order (Amendment) Act, 2012	The whole.
2012	25	The Railway Property (Unlawful Possession) Amendment Act, 2012	The whole.
2012	30	The Right of Children to Free and Compulsory Education (Amendment) Act, 2012	The whole.
2012	37	The All-India Institute of Medical Sciences (Amendment) Act, 2012	The whole.
2013	2	The Prevention of Money-laundering (Amendment) Act, 2012	The whole.
2013	3	The Unlawful Activities (Prevention) Amendment Act, 2012	The whole.
2013	13	The Criminal Law (Amendment) Act, 2013	The whole.
2013	19	The National Highways Authority of India (Amendment) Act, 2013	The whole.
2013	22	The Securities and Exchange Board of India (Amendment) Act, 2013	The whole.
2013	24	The Constitution (Scheduled Tribes) Order (Amendment) Act, 2013	The whole.
2013	29	The Representation of the People (Amendment and Validation) Act, 2013	Sections 2 and 3.

## THE SECOND SCHEDULE

(See section 3)

## AMENDMENTS

Year	No.	Short title	Amendments
2013	14	The Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013	In sections 6, 7 and 24,—  (i) for the words "Local Complaints Committee", wherever they occur, the words "Local Committee" shall be substituted;  (ii) for the words "Internal Complaints Committee", wherever they occur, the words "Internal Committee" shall be substituted.
2014	8	The Governors (Emoluments, Allowances and Privileges) Amendment Act, 2014	In section 2,—  (i) the words and figure "section 2 of" shall be omitted;  (ii) after the brackets and words "(hereinafter referred to as the principal Act)", insert the words and figure "in section 2".

Sd/-

Dr. G. Narayana Raju,  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,  
Secretary to Government.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII ] WEDNESDAY, OCTOBER 5, 2016/ASVINA 13, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 5<sup>th</sup> October, 2016.

No. RPB/251-2016/Act.-27-16-E:— The following Act of Parliament is republished for general information:-

#### GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 14<sup>th</sup> May, 2016, Vaishakh 24, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 14<sup>th</sup> May, 2016 is hereby published for general information:-

#### THE INDUSTRIES (DEVELOPMENT AND REGULATION) (AMENDMENT) ACT, 2016

AN

[ ACT No. 27 of 2016 ]

ACT

[ 14<sup>th</sup> May, 2016 ]

*further to amend the Industries (Development and Regulation) Act, 1951.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Industries (Development and Regulation) Short title.  
Amendment Act, 2016.

65 of 1951.

2. In the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act), after section 29D, the following section shall be substituted, namely:—

Insertion of  
new section  
29E.

"29E. Notwithstanding anything contained in any judgment, decree or any court, tribunal or other authority, any power exercised, or action taken or done or purported to have been taken or done, by the Central Government or, as the case may be, the State Government, shall be deemed to be, and shall always deemed to have been, for all purposes, as validly taken or done or omitted to be done, as if

Validation.

the amendment made to the First Schedule by the Industries (Development and Regulation) Amendment Act, 2016 had been in force at all material times and no suit or claim or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority as such."

Amendment of  
First Schedule.

3. On and from the date of commencement of the principal Act, in the First Schedule, for the heading "26. FERMENTATION INDUSTRIES:", the heading "26. FERMENTATION INDUSTRIES (OTHER THAN POTABLE ALCOHOL):" shall be substituted.

**Dr. G. Narayana Raju,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**C. J. Gothi,**  
Secretary to Government.

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## EXTRAORDINARY

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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 06<sup>th</sup> October, 2016.

No. RPB/251-2016/Act.28-16-E:— The following Act of Parliament is republished for general Information :-

#### GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 14<sup>th</sup> May, 2016/Vaishakh 24, 1938 (Saka)

The following Act of Parliament has received the assent of the President on the 14<sup>th</sup> May, 2016 is hereby published for general information :-

#### THE FINANCE ACT, 2016

[ACT No. 28 OF 2016

[14<sup>th</sup> May, 2016]

AN

ACT

*to give effect to the financial proposals of the Central Government for the financial year 2016-2017.*

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### CHAPTER I

##### PRELIMINARY

- (1) This Act may be called the Finance Act, 2016.
- (2) Save as otherwise provided in this Act, sections 2 to 115 shall be deemed to have come into force on the 1st day of April, 2016.

Short title  
extent and  
commencement

#### CHAPTER II

##### RATES OF INCOME-TAX

- (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1<sup>st</sup> day of April, 2016, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds two lakh fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of two lakh fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “two lakh fifty thousand rupees”, the words “three lakh rupees” had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “two lakh fifty thousand rupees”, the words “five lakh rupees” had been substituted.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

43 of 1961.

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for the purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under section 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115BBE, 115E, 115JB or 115JC of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical



person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, or co-operative society or firm or local authority, at the rate of twelve per cent. of such income-tax, where the total income exceeds one crore rupees;

(b) in the case of every domestic company,—

(i) at the rate of seven per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of twelve per cent. of such income-tax, where the total income exceeds ten crore rupees;

(c) in the case of every company, other than a domestic company,—

(i) at the rate of two per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such income-tax, where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (a) above, having total income chargeable to tax under section 115JC of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as income-tax on such income and surcharge thereon shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

(4) In cases in which tax has to be charged and paid under section 115-O or section 115QA or sub-section (2) of section 115R or section 115TA or section 115TD of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of twelve per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D, 194LBA, 194LBB, 194LBC and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in cases wherever prescribed, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 192A, 194C, 194DA, 194E, 194EE, 194F, 194G, 194H, 194-I, 194-IA, 194J, 194LA, 194LB, 194LBA, 194LBB, 194LBC, 194LC, 194LD, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, being a non-resident, calculated at the rate of fifteen per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the



deduction exceeds one crore rupees;

(b) in the case of every co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(c) in the case of every company, other than a domestic company, calculated,—

(i) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, being a non-resident, calculated at the rate of fifteen per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees;

(b) in the case of every co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees;

(c) in the case of every company, other than a domestic company, calculated,—

(i) at the rate of two per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds ten crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:



Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under section 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BA, 115BB, 115BBA, 115BBC, 115BBD, 115BBDA, 115BBE, 115BBF, 115E, 115JB or 115JC of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, calculated at the rate of fifteen per cent. of such "advance tax", where the total income exceeds one crore rupees;

(b) in the case of every co-operative society or firm or local authority, calculated at the rate of twelve per cent. of such "advance tax", where the total income exceeds one crore rupees;

(c) in the case of every domestic company, calculated,—

(i) at the rate of seven per cent. of such "advance tax", where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of twelve per cent. of such "advance tax", where the total income exceeds ten crore rupees;

(d) in the case of every company, other than a domestic company, calculated,—

(i) at the rate of two per cent. of such "advance tax", where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such "advance tax", where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (a) and (b) above, having total income chargeable to tax under section 115JC of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds two lakh fifty thousand rupees, then, in charging



income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of two lakh fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "three lakh rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "five lakh rupees" had been substituted:

Provided also that the amount of income-tax or "advance tax" so arrived at, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be



called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(13) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2016, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

### CHAPTER III

#### DIRECT TAXES

##### *Income-tax*

3. In section 2 of the Income-tax Act,—

(a) in clause (14), in item (vi), after the words and figures "Gold Deposit Scheme, 1999", the words and figures "or deposit certificates issued under the Gold Monetisation Scheme, 2015" shall be inserted;

Amendment  
of section 2.

(b) after clause (23B), the following clause shall be inserted with effect from the 1st day of June, 2016, namely:—

'(23C) "hearing" includes communication of data and documents through electronic mode;';

(c) in clause (24), in sub-clause (xviii), for the words, figures and brackets "other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to clause (1) of section 43", the following shall be substituted with effect from the 1st day of April, 2017, namely:—

"other than,—

(a) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to clause (1) of section 43; or

(b) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government, as the case may be;";



(d) in clause (37A), in sub-clause (iii), after the words, figures and letters "section 194LBA or", the words, figures and letters "section 194LBB or section 194LBC or" shall be inserted with effect from the 1st day of June, 2016;

(e) in clause (42A), after the second proviso and before *Explanation 1*, the following proviso shall be inserted with effect from the 1st day of April, 2017, namely:—

'Provided also that in the case of a share of a company (not being a share listed in a recognised stock exchange in India), the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twenty-four months" had been substituted.'

Amendment of section 6.

4. In section 6 of the Income-tax Act, for clause (3), the following clause shall be substituted with effect from the 1st day of April, 2017, namely:—

'(3) A company is said to be a resident in India in any previous year, if—

(i) it is an Indian company; or

(ii) its place of effective management, in that year, is in India.

*Explanation.*—For the purposes of this clause "place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance made.'

Amendment of section 9.

5. In section 9 of the Income-tax Act, in sub-section (1), in clause (i), in *Explanation 1*, after clause (d), the following clause shall be inserted, namely:—

"(e) in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to the display of uncut and unassorted diamond in any special zone notified by the Central Government in the Official Gazette in this behalf."

Amendment of section 9A.

6. In section 9A of the Income-tax Act, in sub-section (3), with effect from the 1st day of April, 2017,—

(i) in clause (b), after the words "has been entered into", the words "or is established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf" shall be inserted;

(ii) in clause (k), the words "or from India" shall be omitted.

Amendment of section 10.

7. In section 10 of the Income-tax Act,—

(A) with effect from the 1st day of April, 2017,—

(i) after clause (12), the following clause shall be inserted, namely:—

"(12A) any payment from the National Pension System Trust to an employee on closure of his account or on his opting out of the pension scheme referred to in section 80CCD, to the extent it does not exceed forty per cent. of the total amount payable to him at the time of such closure or his opting out of the scheme;"

(ii) in clause (13),—

(I) in sub-clause (iv), for the word "thereon", the words "thereon; or" shall be substituted;



(II) after sub-clause (iv), the following sub-clause shall be inserted, namely:—

“(v) by way of transfer to the account of the employee under a pension scheme referred to in section 80CCD and notified by the Central Government;”;

(B) in clause (15), in sub-clause (vi), after the words and figures “Gold Deposit Scheme, 1999”, the words and figures “or deposit certificates issued under the Gold Monetisation Scheme, 2015” shall be inserted;

(C) with effect from the 1st day of April, 2017,—

(I) in clause (23DA), in the *Explanation*,—

(I) in clause (a), after sub-clause (i), the following sub-clause shall be inserted, namely:—

“(ia) in clause (z) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; or”;

54 of 2002.

(2) in clause (b), for the word, figures and letters “section 115TC”, the word, figures and letters “section 115TCA” shall be substituted;

(II) in clause (23FC), for the words “by way of interest received or receivable from a special purpose vehicle”, the following shall be substituted, namely:—

“by way of—

(a) interest received or receivable from a special purpose vehicle; or

(b) dividend referred to in sub-section (7) of section 115-O”;

(III) in clause (23FD), for the words, brackets, figures and letters “in clause (23FC)”, the words, brackets, letters and figures “in sub-clause (a) of clause (23FC)” shall be substituted;

(IV) in clause (34), the following proviso shall be inserted, namely:—

“Provided that nothing in this clause shall apply to any income by way of dividend chargeable to tax in accordance with the provisions of section 115BBDA;”;

(V) in clause (35A),—

(a) before the *Explanation*, the following proviso shall be inserted, namely:—

“Provided that nothing contained in this clause shall apply to any income by way of distributed income referred to in the said section, received on or after the 1st day of June, 2016.”;

(b) in the *Explanation*, for the word, figures and letters “section 115TC”, the word, figures and letters “section 115TCA” shall be substituted;

(VI) in clause (38),—

(i) after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that nothing contained in sub-clause (b) shall

apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.”;

(ii) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—For the purposes of this clause,—

(a) “equity oriented fund” means a fund—

(i) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than sixty-five per cent. of the total proceeds of such fund; and

(ii) which has been set up under a scheme of a Mutual Fund specified under clause (23D):

Provided that the percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

(b) “International Financial Services Centre” shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;

28 of 2005.

(c) “recognised stock exchange” shall have the meaning assigned to it in clause (ii) of the *Explanation* 1 to sub-section (5) of section 43.”;

(D) after clause (48), the following clause shall be inserted, namely:—

“(48A) any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India:

Provided that —

(i) the storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and

(ii) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf;”;

(E) after clause (49), the following clause shall be inserted with effect from the 1st day of June, 2016, namely:—

“(50) any income arising from any specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 comes into force and chargeable to equalisation levy under that Chapter.

*Explanation*.—For the purposes of this clause, “specified service” shall have the meaning assigned to it in clause (i) of section 161 of Chapter VIII of the Finance Act, 2016.’

Amendment of  
section 10AA.

8. In section 10AA of the Income-tax Act, in sub-section (1), for the words and figures “April, 2006, a deduction of”, the words, figures and letters “April, 2006, but before the 1st day of April, 2021, the following deduction shall be allowed” shall be substituted with effect from the 1st day of April, 2017.



9. In section 17 of the Income-tax Act, in sub-section (2), in clause (vii), for the words "one lakh rupees", the words "one lakh and fifty thousand rupees" shall be substituted with effect from the 1st day of April, 2017. Amendment of section 17.
10. In section 24 of the Income-tax Act, in clause (b), in the second proviso, for the words "three years", the words "five years" shall be substituted with effect from the 1st day of April, 2017. Amendment of section 24.
11. For sections 25A, 25AA and 25B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2017, namely:— Substitution of new section for sections 25A, 25AA and 25B.
- '25A. (1) The amount of arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant, as the case may be, by an assessee shall be deemed to be the income from house property in respect of the financial year in which such rent is received or realised, and shall be included in the total income of the assessee under the head "Income from house property", whether the assessee is the owner of the property or not in that financial year. Special provision for arrears of rent and unrealised rent received subsequently.
- (2) A sum equal to thirty per cent. of the arrears of rent or the unrealised rent referred to in sub-section (1) shall be allowed as deduction.'
12. In section 28 of the Income-tax Act, in clause (va), with effect from the 1st day of April, 2017,— Amendment of section 28.
- (A) in sub-clause (a), after the words "any business", the words "or profession" shall be inserted;
- (B) in the proviso, in clause (i), after the words "any business", the words "or profession" shall be inserted.
13. In section 32 of the Income-tax Act, in sub-section (1), in clause (iia), for the words "or in the business of generation or generation and distribution", the words "or in the business of generation, transmission or distribution" shall be substituted with effect from the 1st day of April, 2017. Amendment of section 32.
14. In section 32AC of the Income-tax Act, in sub-section (1A),— Amendment of section 32AC.
- (i) for the words "acquired and installed during any previous year exceeds twenty-five crore rupees", the words, figures and letters "acquired during any previous year exceeds twenty-five crore rupees and such assets are installed on or before the 31st day of March, 2017" shall be substituted;
- (ii) before the proviso, the following proviso shall be inserted, namely:—
- "Provided that where the installation of the new assets are in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new assets are installed.";
- (iii) in the existing proviso, for the words "Provided that", the words "Provided further that" shall be substituted.
15. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2018,— Amendment of section 35.
- (i) in sub-section (1),—
- (a) in clause (ii),—
- (I) for the words "one and three-fourth", the words "one and one-half" shall be substituted;
- (II) after the proviso, the following proviso shall be inserted, namely:—
- "Provided further that where any sum is paid to such association, university, college or other institution in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this clause shall be equal to the sum so paid;"



(b) in clause (iia), the words “an amount equal to one and one-fourth times of” shall be omitted;

(c) in clause (iii), the words “an amount equal to one and one-fourth times of” shall be omitted;

(ii) in sub-section (2AA),—

(A) in clause (a), for the words “two times”, the words “one and one-half times” shall be substituted;

(B) after the proviso and before *Explanation 1*, the following proviso shall be inserted, namely:—

“Provided further that where any sum is paid to such National Laboratory or university or Indian Institute of Technology or specified person in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this sub-section shall be equal to the sum so paid.”;

(iii) in sub-section (2AB),—

(a) in clause (1), for the words “two times”, the words “one and one-half times” shall be substituted;

(b) after clause (1) and before the *Explanation*, the following proviso shall be inserted, namely:—

“Provided that where such expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility is incurred in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this clause shall be equal to the expenditure so incurred.”;

(c) clause (5) shall be omitted.

Insertion of new section 35ABA.

Expenditure for obtaining right to use spectrum for telecommunication services.

16. After section 35AB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

‘35ABA. (1) In respect of any expenditure, being in the nature of capital expenditure, incurred for acquiring any right to use spectrum for telecommunication services either before the commencement of the business or thereafter at any time during any previous year and for which payment has actually been made to obtain a right to use spectrum, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

(2) The provisions contained in sub-sections (2) to (8) of section 35ABB, shall apply as if for the word “licence”, the word “spectrum” had been substituted.

(3) Where, in a previous year, any deduction has been claimed and granted to the assessee under sub-section (1), and, subsequently, there is failure to comply with any of the provisions of this section, then,—

(a) the deduction shall be deemed to have been wrongly allowed;

(b) the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary rectification;

(c) the provisions of section 154 shall, so far as may be, apply and the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the failure to comply with the provisions of this section takes place.

*Explanation.*— For the purposes of this section,—

(i) “relevant previous years” means,—

(A) in a case where the spectrum fee is actually paid before the commencement of the business to operate telecommunication services, the previous years beginning with the previous year in which such business commenced;

(B) in any other case, the previous years beginning with the previous year in which the spectrum fee is actually paid,



and the subsequent previous year or years during which the spectrum, for which the fee is paid, shall be in force;

(ii) "appropriate fraction" means the fraction, the numerator of which is one and the denominator of which is the total number of the relevant previous years;

(iii) "payment has actually been made" means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee or payable in such manner as may be prescribed.

17. In section 35AC of the Income-tax Act, after sub-section (6) and before the *Explanation*, the following sub-section shall be inserted with effect from the 1st day of April, 2017, namely:—

Amendment of section 35AC.

"(7) No deduction under this section shall be allowed in respect of any assessment year commencing on or after the 1st day of April, 2018."

18. In section 35AD of the Income-tax Act, with effect from the 1st day of April, 2018,—

Amendment of section 35AD.

(a) sub-section (1A) shall be omitted;

(b) in sub-section (2), after clause (iii), the following clause shall be inserted, namely:—

"(iv) where the business is of the nature referred to in sub-clause (xiv) of clause (c) of sub-section (8), such business,—

(A) is owned by a company registered in India or by a consortium of such companies or by an authority or a board or corporation or any other body established or constituted under any Central or State Act;

(B) entity referred to in sub-clause (A) has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for developing or operating and maintaining or developing, operating and maintaining, a new infrastructure facility."

(c) in sub-section (5),—

(I) in clause (aj), the word "and" occurring at the end shall be omitted;

(II) after clause (aj), the following clause shall be inserted, namely:—

"(ak) on or after the 1st day of April, 2017, where the specified business is in the nature of developing or operating and maintaining or developing, operating and maintaining, any infrastructure facility; and";

(d) in sub-section (8),—

(I) after clause (b), the following clause shall be inserted, namely:—

'(ba) "infrastructure facility" means—

(i) a road including toll road, a bridge or a rail system;

(ii) a highway project including housing or other activities being an integral part of the highway project;

(iii) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;

(iv) a port, airport, inland waterway, inland port or navigational channel in the sea;";

(II) in clause (c), after sub-clause (xiii), the following sub-clause shall be inserted, namely:—

"(xiv) developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility."



- Amendment of section 35CCC. 19. In section 35CCC of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of April, 2017, namely:—  
 ‘Provided that for the assessment year beginning on or after the 1st day of April, 2021, the provisions of this sub-section shall have effect as if for the words “a sum equal to one and one-half times of”, the words “a sum equal to” had been substituted.’.
- Amendment of section 35CCD. 20. In section 35CCD of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of April, 2017, namely:—  
 ‘Provided that for the assessment year beginning on or after the 1st day of April, 2021, the provisions of this sub-section shall have effect as if for the words “an amount equal to one and one-half times of”, the words “a sum equal to” had been substituted.’.
- Amendment of section 36. 21. In section 36 of the Income-tax Act, in sub-section (1), in clause (viia), with effect from the 1st day of April, 2017,—  
 (i) after sub-clause (c) and before the *Explanation*, the following sub-clause shall be inserted, namely:—  
 “(d) a non-banking financial company, an amount not exceeding five per cent. of the total income (computed before making any deduction under this clause and Chapter VI-A).”;  
 (ii) in the *Explanation*, after clause (vi), the following clause shall be inserted, namely:—  
 “(vii) “non-banking financial company” shall have the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934;”.
- Amendment of section 40. 22. In section 40 of the Income-tax Act, in clause (a), after sub-clause (ia), the following sub-clause shall be inserted with effect from the 1st day of June, 2016, namely:—  
 “(ib) any consideration paid or payable to a non-resident for a specified service on which equalisation levy is deductible under the provisions of Chapter VIII of the Finance Act, 2016, and such levy has not been deducted or after deduction, has not been paid on or before the due date specified in sub-section (1) of section 139:  
 Provided that where in respect of any such consideration, the equalisation levy has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such levy has been paid;”.
- Amendment of section 43B. 2017,— 23. In section 43B of the Income-tax Act, with effect from the 1st day of April, 2017,—  
 (i) in clause (f), for the word “employee” occurring at the end, the words “employee, or” shall be substituted;  
 (ii) after clause (f), the following clause shall be inserted, namely:—  
 “(g) any sum payable by the assessee to the Indian Railways for the use of railway assets.”.
- Amendment of section 44AA. 24. In section 44AA of the Income-tax Act, in sub-section (2), for clause (iv), the following clause shall be substituted with effect from the 1st day of April, 2017, namely:—  
 “(iv) where the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year.”.
- Amendment of section 44AB. 2017,— 25. In section 44AB of the Income-tax Act, with effect from the 1st day of April, 2017,—  
 (i) in clause (b), for the words “twenty-five lakh rupees”, the words “fifty lakh rupees” shall be substituted;  
 (ii) in clause (d),—  
 (a) for the word “business” wherever it occurs, the word “profession” shall be substituted;



(b) for the words, figures and letters "under section 44AD", the words, figures and letters "under section 44ADA" shall be substituted;

(c) for the words "previous year", the words "previous year; or" shall be substituted;

(iii) after clause (d) and before the long line, the following clause shall be inserted, namely:—

"(e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,".

26. In section 44AD of the Income-tax Act, with effect from the 1st day of April, 2017,—

Amendment of section 44AD.

(a) in sub-section (2), the proviso shall be omitted;

(b) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:—

"(4) Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1).

(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee to whom the provisions of sub-section (4) are applicable and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.";

(c) in the *Explanation*, in clause (b), in sub-clause (ii), for the words "one crore rupees" occurring at the end, the words "two crore rupees" shall be substituted.

27. After section 44AD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

Insertion of new section 44ADA.

'44ADA.(1) Notwithstanding anything contained in sections 28 to 43C, in the case of an assessee, being a resident in India, who is engaged in a profession referred to in sub-section (1) of section 44AA and whose total gross receipts do not exceed fifty lakh rupees in a previous year, a sum equal to fifty per cent. of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee, shall be deemed to be the profits and gains of such profession chargeable to tax under the head "Profits and gains of business or profession".

Special provision for computing profits and gains of profession on presumptive basis.

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

(3) The written down value of any asset used for the purposes of profession shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) Notwithstanding anything contained in the foregoing provisions of this section, an assessee who claims that his profits and gains from the profession are lower than the profits and gains specified in sub-section (1) and whose total income exceeds the



maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (1) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.’

Amendment of  
section 47.

28. In section 47 of the Income-tax Act, with effect from the 1st day of April, 2017,—

(A) after clause (viib), the following clause shall be inserted, namely:—

“(viic) any transfer of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an assessee being an individual;”;

(B) in clause (xiib), in the proviso,—

(I) in clause (e), the word “and” appearing at the end shall be omitted;

(II) after clause (e), the following clause shall be inserted, namely:—

“(ea) the total value of the assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed five crore rupees; and;”;

(C) after clause (xviii), the following clause shall be inserted with effect from the 1st day of April, 2017, namely:—

“(xix) any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund.

*Explanation.*—For the purposes of this clause,—

(a) “consolidating plan” means the plan within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992;

(b) “consolidated plan” means the plan with which the consolidating plan merges or which is formed as a result of such merger;

(c) “mutual fund” means a mutual fund specified under clause (23D) of section 10.’

15 of 1992.

Amendment of  
section 48.

29. In section 48 of the Income-tax Act, for the third proviso, the following provisos shall be substituted with effect from the 1st day of April, 2017, namely:—

“Provided also that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset, being a bond or debenture other than—

(a) capital indexed bonds issued by the Government; or

(b) Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015:

Provided also that in case of an assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company subscribed by him, shall be ignored for the purposes of computation of full value of consideration under this section.”

Amendment of  
section 49.

30. In section 49 of the Income-tax Act, after sub-section (4) the following sub-section shall be inserted with effect from the 1st day of April, 2017, namely:—

“(5) Where the capital gain arises from the transfer of an asset declared under the Income Declaration Scheme, 2016, and the tax, surcharge and penalty have been paid in accordance with the provisions of the Scheme on the fair market value of the asset as on the date of commencement of the Scheme, the cost of acquisition of the



asset shall be deemed to be the fair market value of the asset which has been taken into account for the purposes of the said Scheme.”.

31. In section 50C of the Income-tax Act, in sub-section (1), the following provisos shall be inserted with effect from the 1st day of April, 2017, namely:—

Amendment of section 50C.

“Provided that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer:

Provided further that the first proviso shall apply only in a case where the amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of the agreement for transfer.”.

32. After section 54ED of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

Insertion of new section 54EE.

‘54EE. (1) Where the capital gain arises from the transfer of a long-term capital asset (herein in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section, namely:—

Capital gain not to be charged on investment in units of a specified fund.

(a) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45; —

(b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45:

Provided that the investment made on or after the 1st day of April, 2016, in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees:

Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from the transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.

(2) Where the long-term specified asset is transferred by the assessee at any time within a period of three years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head “Capital gains” relating to long-term capital asset of the previous year in which the long-term specified asset is transferred.

*Explanation 1.*—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have transferred such specified asset on the date on which such loan or advance is taken.

*Explanation 2.*—For the purposes of this section,—

(a) “cost”, in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;



(b) "long-term specified asset" means a unit or units, issued before the 1st day of April, 2019, of such fund as may be notified by the Central Government in this behalf.

Amendment of  
section 54GB.

33. In section 54GB of the Income-tax Act, with effect from the 1st day of April, 2017,—

(a) after sub-section (5), the following proviso shall be inserted, namely:—

"Provided that in case of an investment in eligible start-up, the provisions of this sub-section shall have the effect as if for the figures, letters and words "31st day of March, 2017", the figures, letters and words "31st day of March, 2019" had been substituted;"

(b) in sub-section (6),—

(i) in clause (b),—

(A) in sub-clause (ii), after the words "an article or a thing", the words "or in an eligible business" shall be inserted;

(B) in sub-clause (iv), after the words and figures "Micro, Small and Medium Enterprises Act, 2006", the words "or is an eligible start-up" shall be inserted;

27 of 2006.

(ii) after clause (b), the following clause shall be inserted, namely:—

"(ba) "eligible start-up" and "eligible business" shall have the meanings respectively assigned to them in *Explanation* below sub-section (4) of section 80-IAC.";

(iii) after clause (d), the following proviso shall be inserted, namely:—

"Provided that in the case of an eligible start-up, being a technology driven start-up so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the Official Gazette, the new asset shall include computers or computer software."

Amendment of  
section 55.

34. In section 55 of the Income-tax Act, with effect from the 1st day of April, 2017,—

(i) in sub-section (1), in clause (b), in sub-clause (I), after the words "any business", the words "or profession" shall be inserted;

(ii) in sub-section (2), in clause (a), after the words "any business", the words "or profession" shall be inserted.

Amendment of  
section 56.

35. In section 56 of the Income-tax Act, in sub-section (2), in clause (vii), in the second proviso occurring after sub-clause (c), with effect from the 1st day of April, 2017,—

(a) in clause (g), for the word, figures and letters "section 12AA", the words, figures and letters "section 12AA; or" shall be substituted;

(b) after clause (g), the following clause shall be inserted, namely:—

"(h) by way of transaction not regarded as transfer under clause (vicb) or clause (vid) or clause (vii) of section 47."

Amendment of  
section 80.

36. In section 80 of the Income-tax Act, after the words, brackets and figures "sub-section (2) of section 73", the words, brackets, figures and letter "or sub-section (2) of section 73A" shall be inserted.

Amendment of  
section  
80CCD.

37. In section 80CCD of the Income-tax Act, in sub-section (3), the following proviso shall be inserted with effect from the 1st day of April, 2017, namely:—

"Provided that the amount received by the nominee, on the death of the assessee, under the circumstances referred to in clause (a), shall not be deemed to be the income of the nominee."



38. For section 80EE of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2017, namely:—

Substitution of new section for section 80EE.

‘80EE. (1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential property.

Deduction in respect of interest on loan taken for residential house property.

(2) The deduction under sub-section (1) shall not exceed fifty thousand rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2017 and subsequent assessment years.

(3) The deduction under sub-section (1) shall be subject to the following conditions, namely:—

(i) the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2016 and ending on the 31st day of March, 2017;

(ii) the amount of loan sanctioned for acquisition of the residential house property does not exceed thirty-five lakh rupees;

(iii) the value of residential house property does not exceed fifty lakh rupees;

(iv) the assessee does not own any residential house property on the date of sanction of loan.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.

(5) For the purposes of this section,—

(a) “financial institution” means a banking company to which the Banking Regulation Act, 1949 applies, or any bank or banking institution referred to in section 51 of that Act or a housing finance company;

(b) “housing finance company” means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.’

10 of 1949.

39. In section 80GG of the Income-tax Act, for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted with effect from the 1st day of April, 2017.

Amendment of section 80GG.

40. In section 80-IA of the Income-tax Act, in sub-section (4), in clause (i), after the proviso and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2017, namely:—

Amendment of section 80-IA.

“Provided further that nothing contained in this section shall apply to any enterprise which starts the development or operation and maintenance of the infrastructure facility on or after the 1st day of April, 2017.”

41. In section 80-IAB of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of April, 2017, namely:—

Amendment of section 80-IAB.

“Provided that the provisions of this section shall not apply to an assessee, being a developer, where the development of Special Economic Zone begins on or after the 1st day of April, 2017.”



Insertion of  
new section  
80-IAC.

Special  
provision in  
respect of  
specified  
business.

42. After section 80-IAB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

'80-IAC. (1) Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent. of the profits and gains derived from such business for three consecutive assessment years.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any three consecutive assessment years out of five years beginning from the year in which the eligible start-up is incorporated.

(3) This section applies to a start-up which fulfils the following conditions, namely:—

(i) it is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of a start-up which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in that section;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

*Explanation 1.*—For the purposes of this clause, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely:—

(a) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(b) such machinery or plant is imported into India;

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

*Explanation 2.*—Where in the case of a start-up, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (ii) of this sub-section, the condition specified therein shall be deemed to have been complied with.

(4) The provisions of sub-section (5) and sub-sections (7) to (11) of section 80-IA shall apply to the start-ups for the purpose of allowing deductions under sub-section (1).

*Explanation.*—For the purposes of this section,—

(i) "eligible business" means a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property;

(ii) "eligible start-up" means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:—

(a) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2019;



(b) the total turnover of its business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021;

(c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government; and

(iii) "limited liability partnership" means a partnership referred to in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008.

6 of 2009.

43. In section 80-IB of the Income-tax Act, in sub-section (9), with effect from the 1st day of April, 2017,—

Amendment of section 80-IB.

(a) in clause (ii), after the words, figures and letters "the 1st day of April, 1997", the words, figures and letters "but not later than the 31st day of March, 2017" shall be inserted;

(b) in clause (iv), after the words, figures and letters "the 1st day of April, 2009", the words, figures and letters "but not later than the 31st day of March, 2017" shall be inserted;

(c) in clause (v), after the words, figures and letters "the 1st day of April, 2009", the words, figures and letters "but not later than the 31st day of March, 2017" shall be inserted.

44. After section 80-IB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

Insertion of new section 80-IBA.

'80-IBA. (1) Where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to the provisions of this section, be allowed, a deduction of an amount equal to hundred per cent. of the profits and gains derived from such business.

Deductions in respect of profits and gains from housing projects.

(2) For the purposes of sub-section (1), a housing project shall be a project which fulfils the following conditions, namely:—

(a) the project is approved by the competent authority after the 1st day of June, 2016, but on or before the 31st day of March, 2019;

(b) the project is completed within a period of three years from the date of approval by the competent authority:

Provided that,—

(i) where the approval in respect of a housing project is obtained more than once, the project shall be deemed to have been approved on the date on which the building plan of such housing project was first approved by the competent authority; and

(ii) the project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority;

(c) the built-up area of the shops and other commercial establishments included in the housing project does not exceed three per cent. of the aggregate built-up area;

(d) the project is on a plot of land measuring not less than—

(i) one thousand square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the distance, measured aerially, of twenty-five kilometres from the municipal limits of these cities; or

(ii) two thousand square metres, where the project is located in any other place;

(e) the project is the only housing project on the plot of land as specified in clause (d);

(f) the built-up area of the residential unit comprised in the housing project does not exceed—

(i) thirty square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the distance, measured aerially, of twenty-five kilometres from the municipal limits of these cities; or



(ii) sixty square metres, where the project is located in any other place;

(g) where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual;

(h) the project utilises—

(i) not less than ninety per cent. of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the distance, measured aerially, of twenty-five kilometres from the municipal limits of these cities, or

(ii) not less than eighty per cent. of such floor area ratio where such project is located in any place other than the place referred to in sub-clause (i); and

(i) the assessee maintains separate books of account in respect of the housing project.

(3) Nothing contained in this section shall apply to any assessee who executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government).

(4) Where the housing project is not completed within the period specified under clause (b) of sub-section (2) and in respect of which a deduction has been claimed and allowed under this section, the total amount of deduction so claimed and allowed in one or more previous years, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the period for completion so expires.

(5) Where any amount of profits and gains derived from the business of developing and building housing projects is claimed and allowed under this section for any assessment year, deduction to the extent of such profit and gains shall not be allowed under any other provisions of this Act.

(6) For the purposes of this section,—

(a) "built-up area" means the inner measurements of the residential unit at the floor level, including projections and balconies, as increased by the thickness of the walls, but does not include the common areas shared with other residential units, including any open terrace so shared;

(b) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;

(c) "floor area ratio" means the quotient obtained by dividing the total covered area of plinth area on all the floors by the area of the plot of land;

(d) "housing project" means a project consisting predominantly of residential units with such other facilities and amenities as the competent authority may approve subject to the provisions of this section;

(e) "residential unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.

45. For section 80JJAA of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2017, namely:—

Substitution of  
new section for  
section  
80JJAA.



'80JJAA. (1) Where the gross total income of an assessee to whom section 44AB applies, includes any profits and gains derived from business, there shall, subject to the conditions specified in sub-section (2), be allowed a deduction of an amount equal to thirty per cent. of additional employee cost incurred in the course of such business in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

Deduction in respect of employment of new employees.

(2) No deduction under sub-section (1) shall be allowed,—

(a) if the business is formed by splitting up, or the reconstruction, of an existing business:

Provided that nothing contained in this clause shall apply in respect of a business which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business in the circumstances and within the period specified in section 33B;

(b) if the business is acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation;

(c) unless the assessee furnishes along with the return of income the report of the accountant, as defined in the *Explanation* to section 288 giving such particulars in the report as may be prescribed.

*Explanation.*—For the purposes of this section,—

(i) "additional employee cost" means the total emoluments paid or payable to additional employees employed during the previous year:

Provided that in the case of an existing business, the additional employee cost shall be *nil*, if—

(a) there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;

(b) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account:

Provided further that in the first year of a new business, emoluments paid or payable to employees employed during that previous year shall be deemed to be the additional employee cost;

(ii) "additional employee" means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include—

(a) an employee whose total emoluments are more than twenty-five thousand rupees per month; or

(b) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or

(c) an employee employed for a period of less than two hundred and forty days during the previous year; or

(d) an employee who does not participate in the recognised provident fund;

(iii) "emoluments" means any sum paid or payable to an employee *in lieu* of his employment by whatever name called, but does not include—

(a) any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and



(b) any lump-sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

(3) The provisions of this section, as they stood immediately prior to their amendment by the Finance Act, 2016, shall apply to an assessee eligible to claim any deduction for any assessment year commencing on or before the 1st day of April, 2016.

Amendment of  
section 87A.

46. In section 87A of the Income-tax Act, for the words "two thousand rupees", the words "five thousand rupees" shall be substituted with effect from the 1st day of April, 2017.

Amendment of  
section 92CA.

47. In section 92CA of the Income-tax Act, in sub-section (3A), the following proviso shall be inserted with effect from the 1st day of June, 2016, namely:—

"Provided that in the circumstances referred to in clause (ii) or clause (x) of *Explanation (1)* to section 153, if the period of limitation available to the Transfer Pricing Officer for making an order is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to have been extended accordingly."

Amendment of  
section 92D.

48. In section 92D of the Income-tax Act, with effect from the 1st day of April, 2017,—

(i) in sub-section (1), the following shall be inserted, namely:—

"Provided that the person, being a constituent entity of an international group, shall also keep and maintain such information and document in respect of an international group as may be prescribed."

*Explanation.*—For the purposes of this section,—

(A) "constituent entity" shall have the meaning assigned to it in clause (d) of sub-section (9) of section 286;

(B) "international group" shall have the meaning assigned to it in clause (g) of sub-section (9) of section 286.

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Without prejudice to the provisions of sub-section (3), the person referred to in the proviso to sub-section (1) shall furnish the information and document referred to in the said proviso to the authority prescribed under sub-section (1) of section 286, in such manner, on or before the date, as may be prescribed."

Amendment of  
section 111A.

49. In section 111A of the Income-tax Act with effect from the 1st day of April, 2017,—

(i) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that nothing contained in clause (b) shall apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency."

(ii) for the *Explanation* below sub-section (3), the following shall be substituted, namely:—

*Explanation.*—For the purposes of this section,—

(a) "equity oriented fund" shall have the meaning assigned to it in the *Explanation* to clause (38) of section 10;

(b) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (g) of section 2 of the Special Economic Zones Act, 2005;

(c) "recognised stock exchange" shall have the meaning assigned to it in clause (ii) of *Explanation 1* to sub-section (5) of section 43.

Amendment of  
section 112.

50. In section 112 of the Income-tax Act, in sub-section (1), in clause (c), in sub-clause (iii), for the words "unlisted securities", the words "unlisted securities or shares of a company not being a company in which the public are substantially interested" shall be substituted with effect from the 1st day of April, 2017.



51. After section 115B of the Income-tax Act, with effect from the 1st day of April, 2017, the following section shall be inserted, namely:—

Insertion of  
new section  
115BA.

Tax on income  
of certain  
domestic  
companies.

“115BA. (1) Notwithstanding anything contained in this Act but subject to the provisions of section 111A and section 112, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017, shall, at the option of such person, be computed at the rate of twenty-five per cent., if the conditions contained in sub-section (2) are satisfied.

(2) For the purposes of sub-section (1), the following conditions shall apply, namely:—

(a) the company has been set-up and registered on or after the 1st day of March, 2016;

(b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and

(c) the total income of the company has been computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AC or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AC or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading “C.—Deductions in respect of certain incomes” other than the provisions of section 80JJAA;

(ii) without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred to in sub-clause (i); and

(iii) depreciation under section 32, other than clause (iia) of sub-section (1) of the said section, is determined in the manner as may be prescribed.

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income which the person is required to furnish under the provisions of this Act:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

52. After section 115BBD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

Insertion of  
new section  
115 BBDA.

Tax on certain  
dividends  
received from  
domestic  
companies.

“115BBDA. (1) Notwithstanding anything contained in this Act, where the total income of an assessee, being an individual, a Hindu undivided family or a firm, resident in India, includes any income in aggregate exceeding ten lakh rupees, by way of dividends declared, distributed or paid by a domestic company or companies, the income-tax payable shall be the aggregate of—

(a) the amount of income-tax calculated on the income by way of such dividends in aggregate exceeding ten lakh rupees, at the rate of ten per cent.; and

(b) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of income by way of dividends.

(2) No deduction in respect of any expenditure or allowance or set off of loss shall be allowed to the assessee under any provision of this Act in computing the income by way of dividends referred to in clause (a) of sub-section (1).



(3) In this section, "dividends" shall have the same meaning as is given to "dividend" in clause (22) of section 2 but shall not include sub-clause (e) thereof.'

Amendment of  
section  
115BBE.

53. In section 115BBE of the Income-tax Act, in sub-section (2), after the word "allowance", the words "or set off of any loss" shall be inserted with effect from the 1st day of April, 2017.

Insertion of  
new section  
115BBF.  
Tax on income  
from patent.

54. After section 115BBE of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

'115BBF. (1) Where the total income of an eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, the income-tax payable shall be the aggregate of—

(a) the amount of income-tax calculated on the income by way of royalty in respect of the patent at the rate of ten per cent.; and

(b) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the income referred to in clause (a).

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the eligible assessee under any provision of this Act in computing his income referred to in clause (a) of sub-section (1).

(3) The eligible assessee may exercise the option for taxation of income by way of royalty in respect of a patent developed and registered in India in accordance with the provisions of this section, in the prescribed manner, on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the relevant previous year.

(4) Where an eligible assessee opts for taxation of income by way of royalty in respect of a patent developed and registered in India for any previous year in accordance with the provisions of this section and the assessee offers the income for taxation for any of the five assessment years relevant to the previous year succeeding the previous year not in accordance with the provisions of sub-section (1), then, the assessee shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which such income has not been offered to tax in accordance with the provisions of sub-section (1).

*Explanation.*—For the purposes of this section,—

(a) "developed" means at least seventy-five per cent. of the expenditure incurred in India by the eligible assessee for any invention in respect of which a patent is granted under the Patents Act, 1970 (herein referred to as the Patents Act);

39 of 1970.

(b) "eligible assessee" means a person resident in India and who is a patentee;

(c) "invention" shall have the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Patents Act;

(d) "lump sum" includes an advance payment on account of such royalties which is not returnable;

(e) "patent" shall have the meaning assigned to it in clause (m) of sub-section (1) of section 2 of the Patents Act;

(f) "patentee" means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, in accordance with the Patents Act, and includes every such person, being the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent;

(g) "patented article" and "patented process" shall have the meanings respectively assigned to them in clause (o) of sub-section (1) of section 2 of the Patents Act;

(h) "royalty", in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or the patented article for commercial use) for the—

(i) transfer of all or any rights (including the granting of a licence) in respect of a patent; or



(ii) imparting of any information concerning the working of, or the use of, a patent; or

(iii) use of any patent; or

(iv) rendering of any services in connection with the activities referred to in sub-clauses (i) to (iii);

(i) "true and first inventor" shall have the meaning assigned to it in clause (v) of sub-section (1) of section 2 of the Patents Act.

55. In section 115JB of the Income-tax Act,—

Amendment of  
section 115JB.

(I) after sub-section (2),—

(a) in *Explanation 1*, with effect from the 1st day of April, 2017,—

(i) after clause (fc), the following clause shall be inserted, namely:—

"(fd) the amount or amounts of expenditure relatable to income by way of royalty in respect of patent chargeable to tax under section 115BBF; or";

(ii) in the long line,—

(A) in clause (iif), for the words "may be;" occurring at the end, the words "may be; or" shall be substituted;

(B) after clause (iif), the following clause shall be inserted, namely:—

"(iig) the amount of income by way of royalty in respect of patent chargeable to tax under section 115BBF;";

(b) *Explanation 4* shall be renumbered as *Explanation 5* thereof and before *Explanation 5* as so renumbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

"*Explanation 4*.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, if—

(i) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such agreement; or

(ii) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) and the assessee is not required to seek registration under any law for the time being in force relating to companies.";

(II) after sub-section (6), the following sub-section shall be inserted with effect from the 1st day of April, 2017, namely:—

'(7) Notwithstanding anything contained in sub-section (1), where the assessee referred to therein, is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the provisions of sub-section (1) shall have the effect as if for the words "eighteen and one-half per cent." wherever occurring in that sub-section, the words "nine per cent." had been substituted.

*Explanation*.—For the purposes of this sub-section,—

(a) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (g) of section 2 of the Special Economic Zones Act, 2005;

(b) "unit" means a unit established in an International Financial Services Centre;

(c) "convertible foreign exchange" means a foreign exchange which



is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 and the rules made thereunder.’

42 of 1999.

Insertion of  
new Chapter  
XII-BC.

56. After Chapter XII-BB of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2017, namely:—

“CHAPTER XII-BC

SPECIAL PROVISIONS RELATING TO FOREIGN COMPANY  
SAID TO BE RESIDENT IN INDIA

Foreign  
company said  
to be resident  
in India.

115JH. (1) Where a foreign company is said to be resident in India in any previous year and such foreign company has not been resident in India in any of the previous years preceding the said previous year, then, notwithstanding anything contained in this Act and subject to the conditions as may be notified by the Central Government in this behalf, the provisions of this Act relating to the computation of total income, treatment of unabsorbed depreciation, set off or carry forward and set off of losses, collection and recovery and special provisions relating to avoidance of tax shall apply with such exceptions, modifications and adaptations as may be specified in that notification for the said previous year:

Provided that where the determination regarding foreign company to be resident in India has been made in the assessment proceedings relevant to any previous year, then, the provisions of this sub-section shall also apply in respect of any other previous year, succeeding such previous year, if the foreign company is resident in India in that previous year and the previous year ends on or before the date on which such assessment proceeding is completed.

(2) Where, in a previous year, any benefit, exemption or relief has been claimed and granted to the foreign company in accordance with the provisions of sub-section (1), and, subsequently, there is failure to comply with any of the conditions specified in the notification issued under sub-section (1), then,—

(i) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(ii) the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary amendment as if the exceptions, modifications and adaptations referred to in sub-section (1) did not apply; and

(iii) the provisions of section 154 shall, so far as may be, apply thereto and the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the failure to comply with the condition referred to in sub-section (1) takes place.

(3) Every notification issued under this section shall be laid before each House of Parliament.”

Amendment of  
section 115-O.

57. In section 115-O of the Income-tax Act,—

(a) after sub-section (6), the following sub-section shall be inserted, with effect from the 1st day of June, 2016, namely:—

“(7) No tax on distributed profits shall be chargeable under this section in respect of any amount declared, distributed or paid by the specified domestic company by way of dividends (whether interim or otherwise) to a business trust out of its current income on or after the specified date:

Provided that nothing contained in this sub-section shall apply in respect of any amount declared, distributed or paid, at any time, by the specified domestic company by way of dividends (whether interim or otherwise) out of its accumulated profits and current profits up to the specified date.

*Explanation.*—For the purposes of this sub-section,—

(a) “specified domestic company” means a domestic company in which a business trust has become the holder of whole of the nominal



value of equity share capital of the company (excluding the equity share capital required to be held mandatorily by any other person in accordance with any law for the time being in force or any directions of Government or any regulatory authority, or equity share capital held by any Government or Government body);

(b) "specified date" means the date of acquisition by the business trust of such holding as is referred to in clause (a).;

(b) after sub-section (7) as so inserted, the following sub-section shall be inserted with effect from the 1st day of April, 2017, namely:—

'(8) Notwithstanding anything contained in this section, no tax on distributed profits shall be chargeable in respect of the total income of a company, being a unit of an International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017, out of its current income, either in the hands of the company or the person receiving such dividend.

*Explanation.*—For the purposes of this sub-section,—

(a) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;

(b) "unit" means a unit established in an International Financial Services Centre, on or after the 1st day of April, 2016;

(c) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 and the rules made thereunder.

28 of 2005.

42 of 1999.

58. In section 115QA of the Income-tax Act, in sub-section (1), in the *Explanation*, with effect from the 1st day of June, 2016,—

Amendment of section 115QA.

1 of 1956.

(a) in clause (i), for the words, figures and letter "section 77A of the Companies Act, 1956", the words "any law for the time being in force relating to companies" shall be substituted;

(b) in clause (ii), for the words "the amount which was received by the company for issue of such shares", the words "the amount, which was received by the company for issue of such shares, determined in the manner as may be prescribed" shall be substituted.

59. In section 115TA of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted with effect from the 1st day of June, 2016, namely:—

Amendment of section 115TA.

"(5) Nothing contained in this section shall apply in respect of any income distributed by a securitisation trust to its investors on or after the 1st day of June, 2016."

60. In section 115TC of the Income-tax Act, in the *Explanation*, with effect from the 1st day of June, 2016,—

Amendment of section 115TC.

(A) in clause (a), after the words "or securities", the words "or security receipt" shall be inserted;

(B) in clause (d),—

(f) in sub-clause (ii), after the words "Reserve Bank of India," the word "or" shall be inserted;



(II) after sub-clause (ii) and before the long line, the following sub-clause shall be inserted, namely:—

“(iii) trust set-up by a securitisation company or a reconstruction company formed, for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, or in pursuance of any guidelines or directions issued for the said purposes by the Reserve Bank of India.”;

54 of 2002.

(C) after clause (d), the following clause shall be inserted, namely:—

“(e) “security receipt” shall have the same meaning as assigned to it in clause (zg) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.”.

54 of 2002.

Insertion of  
new section  
115TCA.

61. After section 115TC of the Income-tax Act and before the *Explanation* occurring after the said section, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

Tax on income  
from  
securitisation  
trusts.

“115TCA. (1) Notwithstanding anything contained in this Act, any income accruing or arising to, or received by, a person, being an investor of a securitisation trust, out of investments made in the securitisation trust, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person, had the investments by the securitisation trust been made directly by him.

(2) The income paid or credited by the securitisation trust shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1), as if it had been received by, or had accrued or arisen to, the securitisation trust during the previous year.

(3) The income accruing or arising to, or received by, the securitisation trust, during a previous year, if not paid or credited to the person referred to in sub-section (1), shall be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

(4) The person responsible for crediting or making payment of the income on behalf of securitisation trust and the securitisation trust shall furnish, within such period, as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in such form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.

(5) Any income which has been included in the total income of the person referred to in sub-section (1), in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the securitisation trust.”.

Insertion of  
new Chapter  
XII-EB.

62. After Chapter XII-EA of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of June, 2016, namely:—

#### ‘CHAPTER XII-EB

#### SPECIAL PROVISIONS RELATING TO TAX ON ACCRETED INCOME OF CERTAIN TRUSTS AND INSTITUTIONS

Tax on  
accreted  
income.

115TD. (1) Notwithstanding anything contained in this Act, where in any previous year, a trust or institution registered under section 12AA has—

(a) converted into any form which is not eligible for grant of registration under section 12AA;

(b) merged with any entity other than an entity which is a trust or institution having objects similar to it and registered under section 12AA; or



(c) failed to transfer upon dissolution all its assets to any other trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, within a period of twelve months from the end of the month in which the dissolution takes place,

then, in addition to the income-tax chargeable in respect of the total income of such trust or institution, the accreted income of the trust or the institution as on the specified date shall be charged to tax and such trust or institution, as the case may be, shall be liable to pay additional income-tax (herein referred to as tax on accreted income) at the maximum marginal rate on the accreted income.

(2) The accreted income for the purposes of sub-section (1) means the amount by which the aggregate fair market value of the total assets of the trust or the institution, as on the specified date, exceeds the total liability of such trust or institution computed in accordance with the method of valuation as may be prescribed:

Provided that so much of the accreted income as is attributable to the following asset and liability, if any, related to such asset shall be ignored for the purposes of sub-section (1), namely:—

(i) any asset which is established to have been directly acquired by the trust or institution out of its income of the nature referred to in clause (1) of section 10;

(ii) any asset acquired by the trust or institution during the period beginning from the date of its creation or establishment and ending on the date from which the registration under section 12AA became effective, if the trust or institution had not been allowed any benefit of sections 11 and 12 during the said period:

Provided further that where due to the first proviso to sub-section (2) of section 12A, the benefit of sections 11 and 12 have been allowed to the trust or the institution in respect of any previous year or years beginning prior to the date from which the registration under section 12AA is effective, then, for the purposes of clause (ii) of the first proviso, the registration shall be deemed to have become effective from the first day of the earliest previous year:

Provided also that while computing the accreted income in respect of a case referred to in clause (c) of sub-section (1), assets and liabilities, if any, related to such asset, which have been transferred to any other trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, within the period specified in the said clause, shall be ignored.

(3) For the purposes of sub-section (1), a trust or an institution shall be deemed to have been converted into any form not eligible for registration under section 12AA in a previous year, if,—

(i) the registration granted to it under section 12AA has been cancelled; or

(ii) it has adopted or undertaken modification of its objects which do not conform to the conditions of registration and it,—

(a) has not applied for fresh registration under section 12AA in the said previous year; or

(b) has filed application for fresh registration under section 12AA but the said application has been rejected.

(4) Notwithstanding that no income-tax is payable by a trust or the institution on its total income computed in accordance with the provisions of this Act, the tax on the accreted income under sub-section (1) shall be payable by such trust or the institution.

(5) The principal officer or the trustee of the trust or the institution, as the case may be, and the trust or the institution shall also be liable to pay the tax on accreted income to the credit of the Central Government within fourteen days from,—

(i) the date on which,—

(a) the period for filing appeal under section 253 against the order



cancelling the registration expires and no appeal has been filed by the trust or the institution; or

(b) the order in any appeal, confirming the cancellation of the registration, is received by the trust or institution,

in a case referred to in clause (i) of sub-section (3);

(ii) the end of the previous year in a case referred to in sub-clause (a) of clause (ii) of sub-section (3);

(iii) the date on which,—

(a) the period for filing appeal under section 253 against the order rejecting the application expires and no appeal has been filed by the trust or the institution; or

(b) the order in any appeal, confirming the cancellation of the application, is received by the trust or institution,

in a case referred to in sub-clause (b) of clause (ii) of sub-section (3);

(iv) the date of merger in a case referred to in clause (b) of sub-section (1);

(v) the date on which the period of twelve months referred to in clause (c) of sub-section (1) expires.

(6) The tax on the accreted income by the trust or the institution shall be treated as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by the trust or the institution or by any other person in respect of the amount of tax so paid.

(7) No deduction under any other provision of this Act shall be allowed to the trust or the institution or any other person in respect of the income which has been charged to tax under sub-section (1) or the tax thereon.

*Explanation.*—For the purposes of this section,—

(i) “date of conversion” means,—

(a) the date of the order cancelling the registration under section 12AA, in a case referred to in clause (i) of sub-section (3); or

(b) the date of adoption or modification of any object, in a case referred to in clause (ii) of sub-section (3);

(ii) “specified date” means,—

(a) the date of conversion in a case falling under clause (a) of sub-section (1);

(b) the date of merger in a case falling under clause (b) of sub-section (1); and

(c) the date of dissolution in a case falling under clause (c) of sub-section (1);

(iii) registration under section 12AA shall include any registration obtained under section 12A as it stood before its amendment by the Finance (No. 2) Act, 1996.

33 of 1996.

Interest payable for non-payment of tax by trust or institution.

115TE. Where the principal officer or the trustee of the trust or the institution and the trust or the institution fails to pay the whole or any part of the tax on the accreted income referred to in sub-section (1) of section 115TD, within the time allowed under sub-section (5) of that section, he or it shall be liable to pay simple interest at the rate of one per cent. for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

When trust or institution is deemed to be assessee in default.

115TF. (1) If any principal officer or the trustee of the trust or the institution and the trust or the institution does not pay tax on accreted income in accordance with the provisions of section 115TD, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.



(2) Notwithstanding anything contained in sub-section (1), in a case where the tax on accreted income is payable under the circumstances referred to in clause (c) of sub-section (1) of section 115TD, the person to whom any asset forming part of the computation of accreted income under sub-section (2) thereof has been transferred, shall be deemed to be an assessee in default in respect of such tax and interest thereon and all the provisions of this Act for the collection and recovery of income-tax shall apply:

Provided that the liability of the person referred to in this sub-section shall be limited to the extent to which the asset received by him is capable of meeting the liability.

63. In section 115UA of the Income-tax Act, in sub-section (3), for the words, brackets, figures and letters "in clause (23FC)", the words, brackets, letters and figures "in sub-clause (a) of clause (23FC)" shall be substituted with effect from the 1st day of April, 2017.

Amendment of section 115UA.

64. In section 119 of the Income-tax Act, in sub-section (2), in clause (a), after the figures and letter "234E", the figures and letter "270A," shall be inserted with effect from the 1st day of April, 2017.

Amendment of section 119.

65. In section 124 of the Income-tax Act, in sub-section (3), after clause (b), the following clause shall be inserted with effect from the 1st day of June, 2016, namely:—

Amendment of section 124.

"(c) where an action has been taken under section 132 or section 132A, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 153A or sub-section (2) of section 153C or after the completion of the assessment, whichever is earlier."

66. Section 133C of the Income-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted with effect from the 1st day of June, 2016, namely:—

Amendment of section 133C.

"(2) Where any information or document has been received in response to a notice issued under sub-section (1), the prescribed income-tax authority may process such information or document and make available the outcome of such processing to the Assessing Officer."

67. In section 139 of the Income-tax Act,—

Amendment of section 139.

(i) in sub-section (1), in the sixth proviso, for the words, figures and letter "provisions of section 10A", the words, brackets, figures and letter "provisions of clause (38) of section 10 or section 10A" shall be substituted with effect from the 1st day of April, 2017;

(ii) in sub-section (3), after the words, brackets and figures "sub-section (2) of section 73", the words, brackets, figures and letter "or sub-section (2) of section 73A" shall be inserted;

(iii) with effect from the 1st day of April, 2017,—

(a) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier."

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier."

(c) in sub-section (9), in the *Explanation*, clause (aa) shall be omitted.

68. In section 143 of the Income-tax Act,—

Amendment of section 143.

(a) with effect from the 1st day of April, 2017,—

(1) in sub-section (1), in clause (a),—

(A) in sub-clause (i), the word "or" appearing at the end shall be omitted;



(B) after sub-clause (ii), the following sub-clauses shall be inserted, namely:—

“(iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;

(iv) disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return;

(v) disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return is furnished beyond the due date specified under sub-section (1) of section 139; or

(vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:

Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode:

Provided further that the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made;”;

(II) for sub-section (1D), the following sub-section shall be substituted, namely:—

“(1D) Notwithstanding anything contained in sub-section (1), the processing of a return shall not be necessary before the expiry of the period specified in the second proviso to sub-section (1), where a notice has been issued to the assessee under sub-section (2):

Provided that such return shall be processed before the issuance of an order under sub-section (3).”.

(b) for sub-section (2), the following sub-section shall be substituted with effect from the 1st day of June, 2016, namely:—

“(2) Where a return has been furnished under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer or the prescribed income-tax authority, as the case may be, if, considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of six months from the end of the financial year in which the return is furnished.”.

Amendment of  
section 147.

69. In section 147 of the Income-tax Act, in *Explanation 2*, after clause (c), the following clause shall be inserted with effect from the 1st day of June, 2016, namely:—

“(ca) where a return of income has not been furnished by the assessee or a return of income has been furnished by him and on the basis of information or document received from the prescribed income-tax authority, under sub-section (2) of section 133C, it is noticed by the Assessing Officer that the income of the assessee exceeds the maximum amount not chargeable to tax, or as the case may be, the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;”.



70. For section 153 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2016, namely:—

Substitution of new section for section 153.

“153. (1) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of twenty-one months from the end of the assessment year in which the income was first assessable.

Time limit for completion of assessment, reassessment and recomputation.

(2) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of nine months from the end of the financial year in which the notice under section 148 was served.

(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), where a reference under sub-section (1) of section 92CA is made during the course of the proceeding for the assessment or reassessment, the period available for completion of assessment or reassessment, as the case may be, under the said sub-sections (1), (2) and (3) shall be extended by twelve months.

(5) Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer, wholly or partly, otherwise than by making a fresh assessment or reassessment, such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner:

Provided that where it is not possible for the Assessing Officer to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such request in writing from the Assessing Officer, if satisfied, may allow an additional period of six months to give effect to the order.

(6) Nothing contained in sub-sections (1) and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of sub-sections (3) and (5), be completed—

(i) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of twelve months from the end of the month in which such order is received or passed by the Principal Commissioner or Commissioner, as the case may be; or

(ii) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed.

(7) Where effect to any order, finding or direction referred to in sub-section (5) or sub-section (6) is to be given by the Assessing Officer, within the time specified in the said sub-sections, and such order has been received or passed, as the case may be, by the income-tax authority specified therein before the 1st day of June, 2016, the Assessing Officer shall give effect to such order, finding or direction, or assess, reassess or recompute the income of the assessee, on or before the 31st day of March, 2017.



(8) Notwithstanding anything contained in the foregoing provisions of this section, sub-section (2) of section 153A or sub-section (1) of section 153B, the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A, shall be made within a period of one year from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B, whichever is later.

(9) The provisions of this section as they stood immediately before the commencement of the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st day of June, 2016.

*Explanation 1.*—For the purposes of this section, in computing the period of limitation—

(i) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the proviso to section 129; or

(ii) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(iii) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B) or sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, under clause (i) of the proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or

(iv) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and—

(a) ending with the last date on which the assessee is required to furnish a report of such audit under that sub-section; or

(b) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or

(v) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or

(vi) the period (not exceeding sixty days) commencing from the date on which the Assessing Officer received the declaration under sub-section (1) of section 158A and ending with the date on which the order under sub-section (3) of that section is made by him; or

(vii) in a case where an application made before the Income-tax Settlement Commission is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which an application is made before the Settlement Commission under section 245C and ending with the date on which the order under sub-section (1) of section 245D is received by the Principal Commissioner or Commissioner under sub-section (2) of that section; or

(viii) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or

(ix) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R; or



(x) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or

(xi) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-sections (1), (2), (3) and sub-section (8) available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided further that where the period available to the Transfer Pricing Officer is extended to sixty days in accordance with the proviso to sub-section (3A) of section 92CA and the period of limitation available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149, 153B, 154, 155 and 158BE and for the purposes of payment of interest under section 244A, this proviso shall also apply accordingly.

*Explanation 2.*—For the purposes of this section, where, by an order referred to in clause (i) of sub-section (6),—

(a) any income is excluded from the total income of the assessee for an assessment year, then, an assessment of such income for another assessment year shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order; or

(b) any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order, if such other person was given an opportunity of being heard before the said order was passed.”

71. For section 153B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2016, namely:—

‘153B. (1) Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,—

Substitution of new section for section 153B.

Time limit for completion of assessment under section 153A.



(a) in respect of each assessment year falling within six assessment years referred to in clause (b) of sub-section (1) of section 153A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed;

(b) in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed:

Provided that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or nine months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

Provided further that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (1) of section 92CA is made, the provisions of clause (a) or clause (b) of this sub-section shall have effect as if for the words "twenty-one months", the words "thirty-three months" had been substituted:

Provided also that in case where during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (1) of section 92CA is made, the period of limitation for making the assessment or reassessment in case of such other person shall be the period of thirty-three months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twenty-one months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.

(2) The authorisation referred to in clause (a) and clause (b) of sub-section (1) shall be deemed to have been executed,—

(a) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued; or

(b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

(3) The provisions of this section, as they stood immediately before the commencement of the Finance Act, 2016, shall apply to and in relation to any order of assessment or reassessment made before the 1st day of June, 2016.

*Explanation.*—In computing the period of limitation under this section—

(i) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(ii) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and—

(a) ending with the last date on which the assessee is required to furnish a report of such audit under that sub-section; or



(b) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or

(iii) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or

(iv) the time taken in re-opening the whole or any part of the proceeding or in giving an opportunity to the assessee of being re-heard under the proviso to section 129; or

(v) in a case where an application made before the Income-tax Settlement Commission is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which an application is made before the Settlement Commission under section 245C and ending with the date on which the order under sub-section (1) of section 245D is received by the Principal Commissioner or Commissioner under sub-section (2) of that section; or

(vi) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or

(vii) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R; or

(viii) the period commencing from the date of annulment of a proceeding or order of assessment or reassessment referred to in sub-section (2) of section 153A, till the date of the receipt of the order setting aside the order of such annulment, by the Principal Commissioner or Commissioner; or

(ix) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or

(x) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in clause (a) or clause (b) of this sub-section available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided further that where the period available to the Transfer Pricing Officer is extended to sixty days in accordance with the proviso to sub-section (3A) of section 92CA and the period of limitation available to the Assessing Officer for making an



order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

Amendment of section 192A.

72. In section 192A of the Income-tax Act, in the first proviso, for the words "thirty thousand rupees", the words "fifty thousand rupees" shall be substituted with effect from the 1st day of June, 2016.

Amendment of section 194BB.

73. In section 194BB of the Income-tax Act, for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted with effect from the 1st day of June, 2016.

Amendment of section 194C.

74. In section 194C of the Income-tax Act, in sub-section (5), in the proviso, for the words "seventy-five thousand rupees", the words "one lakh rupees" shall be substituted with effect from the 1st day of June, 2016.

Amendment of section 194D.

75. In section 194D of the Income-tax Act, in the second proviso, for the words "twenty thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of June, 2016.

Amendment of section 194DA.

76. In section 194DA of the Income-tax Act, for the words "two per cent.", the words "one per cent." shall be substituted with effect from the 1st day of June, 2016.

Amendment of section 194EE.

77. In section 194EE of the Income-tax Act, for the words "twenty per cent.", the words "ten per cent." shall be substituted with effect from the 1st day of June, 2016.

Amendment of section 194G.

78. In section 194G of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2016,—

(i) for the words "one thousand rupees", the words "fifteen thousand rupees" shall be substituted;

(ii) for the words "ten per cent.", the words "five per cent." shall be substituted.

Amendment of section 194H.

79. In section 194H of the Income-tax Act, with effect from the 1st day of June, 2016,—

(i) for the words "ten per cent.", the words "five per cent." shall be substituted;

(ii) in first proviso, for the words "five thousand rupees", the words "fifteen thousand rupees" shall be substituted.

Omission of sections 194K and 194L.

80. Section 194K and section 194L of the Income-tax Act shall be omitted with effect from the 1st day of June, 2016.

Amendment of section 194LA.

81. In section 194LA of the Income-tax Act, in the proviso, for the words "two hundred thousand rupees", the words "two lakh and fifty thousand rupees" shall be substituted with effect from the 1st day of June, 2016.

Amendment of section 194LBA.

82. In section 194LBA of the Income-tax Act, with effect from the 1st day of June, 2016,—

(i) in sub-section (1), for the words, brackets, figures and letters "in clause (23FC)", the words, brackets, figures and letters "in sub-clause (a) of clause (23FC)" shall be substituted;

(ii) in sub-section (2), for the words, brackets, figures and letters "in clause (23FC)", the words, brackets, figures and letters "in sub-clause (a) of clause (23FC)" shall be substituted.

Amendment of section 194LBB.

83. In section 194LBB of the Income-tax Act, for the words "deduct income-tax thereon at the rate of ten per cent.", the following shall be substituted with effect from the 1st day of June, 2016, namely:—

"deduct income-tax thereon,—

(i) at the rate of ten per cent., where the payee is a resident;



(ii) at the rates in force, where the payee is a non-resident (not being a company) or a foreign company:

Provided that where the payee is a non-resident (not being a company) or a foreign company, no deduction shall be made in respect of any income that is not chargeable to tax under the provisions of the Act.”.

84. After section 194LBB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2016, namely:—

Insertion of new section 194LBC.  
Income in respect of investment in securitisation trust.

‘194LBC. (1) Where any income is payable to an investor, being a resident, in respect of an investment in a securitisation trust specified in clause (d) of the *Explanation* occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, at the rate of—

(i) twenty-five per cent., if the payee is an individual or a Hindu undivided family;

(ii) thirty per cent., if the payee is any other person.

(2) Where any income is payable to an investor, being a non-resident (not being a company) or a foreign company, in respect of an investment in a securitisation trust specified in clause (d) of the *Explanation* occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, at the rates in force.

*Explanation.*—For the purposes of this section,—

(a) “investor” shall have the meaning assigned to it in clause (a) of the *Explanation* occurring after section 115TCA;

(b) where any income as aforesaid is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee, and the provisions of this section shall apply accordingly.’.

85. In section 197 of the Income-tax Act, in sub-section (1), after the figures and letters “194LA”, the figures and letters “, 194LBB, 194LBC” shall be inserted with effect from the 1st day of June, 2016.

Amendment of section 197.

86. In section 197A of the Income-tax Act, with effect from the 1st day of June, 2016,—

Amendment of section 197A.

(a) in sub-section (1A), after the word, figures and letters “section 194DA” at both the places where they occur, the words, figures and letter “or section 194-I” shall be inserted;

(b) in sub-section (1C), after the word, figures and letters “section 194EE” at both the places where they occur, the words, figures and letter “or section 194-I” shall be inserted.

87. In section 206AA of the Income-tax Act, for sub-section (7), the following sub-section shall be substituted with effect from the 1st day of June, 2016, namely:—

Amendment of section 206AA.

“(7) The provisions of this section shall not apply to a non-resident, not being a company, or to a foreign company, in respect of—

(i) payment of interest on long-term bonds as referred to in section 194LC; and

(ii) any other payment subject to such conditions as may be prescribed.”.

88. In section 206C of the Income-tax Act, with effect from the 1st day of June, 2016,—

Amendment of section 206C.



(i) in sub-section (1D),—

(A) after the words “or jewellery”, the words “or any other goods (other than bullion or jewellery) or providing any service” shall be inserted;

(B) in clause (ii), for the word “rupees.”, the words “rupees; or” shall be substituted;

(C) after clause (ii), the following clause shall be inserted, namely:—

“(iii) for any goods, other than those referred to in clauses (i) and (ii), or any service, exceeds two hundred thousand rupees:

Provided that no tax shall be collected at source under this sub-section on any amount on which tax has been deducted by the payer under Chapter XVII-B.”;

(ii) after sub-section (1D), the following sub-sections shall be inserted, namely:—

“(1E) Nothing contained in sub-section (1D) in relation to sale of any goods (other than bullion or jewellery) or providing any service shall apply to such class of buyers who fulfil such conditions, as may be prescribed.

(1F) Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ten lakh rupees, shall, at the time of receipt of such amount, collect from the buyer, a sum equal to one per cent. of the sale consideration as income-tax.”;

(iii) after sub-section (1I), in the *Explanation*,—

(A) in clause (aa), in sub-clause (ii), after the word, brackets, figure and letter “sub-section (1D)”, the words, brackets, figure and letter “or sub-section (1F)” shall be inserted;

(B) in clause (c), after the word “sold”, the words, brackets, figure and letter “or services referred to in sub-section (1D) are provided” shall be inserted.”.

Amendment of  
section 211.

89. In section 211 of the Income-tax Act, for sub-section (I), the following sub-section shall be substituted with effect from the 1st day of June, 2016, namely:—

“(I) Advance tax on the current income calculated in the manner laid down in section 209 shall be payable by—

(a) all the assessees, other than the assessee referred to in clause (b), who are liable to pay the same, in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in the Table below:

TABLE

Due date of instalment	Amount payable
On or before the 15th June	Not less than fifteen per cent. of such advance tax.
On or before the 15th September	Not less than forty-five per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than seventy-five per cent. of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments;



(b) an eligible assessee in respect of an eligible business referred to in section 44AD, to the extent of the whole amount of such advance tax during each financial year on or before the 15th March:

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.”

90. In section 220 of the Income-tax Act, in sub-section (2A), after clause (iii), the following provisos shall be inserted with effect from the 1st day of June, 2016, namely:—

Amendment of section 220.

“Provided that the order accepting or rejecting the application of the assessee, either in full or in part, shall be passed within a period of twelve months from the end of the month in which the application is received:

Provided further that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:

Provided also that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017.”

91. In section 234C of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2016,—

Amendment of section 234C.

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) an assessee, other than an eligible assessee in respect of the eligible business referred to in section 44AD, who is liable to pay advance tax under section 208 has failed to pay such tax or—

(i) the advance tax paid by such assessee on its current income on or before the 15th day of June is less than fifteen per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of September is less than forty-five per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than seventy-five per cent. of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent. per month for a period of three months on the amount of the shortfall from fifteen per cent. or forty-five per cent. or seventy-five per cent., as the case may be, of the tax due on the returned income;

(ii) the advance tax paid by the assessee on the current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent. on the amount of the shortfall from the tax due on the returned income:

Provided that if the advance tax paid by the assessee on the current income, on or before the 15th day of June or the 15th day of September, is not less than twelve per cent. or, as the case may be, thirty-six per cent. of the tax due on the returned income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates;”;

(ii) in clause (b), for the portion beginning with the words “the assessee, other than a company” and ending with the words “shortfall from the tax due on the returned income”, the following shall be substituted, namely:—

“an eligible assessee in respect of the eligible business referred to in section 44AD, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its



current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent. on the amount of the shortfall from the tax due on the returned income.”;

(iii) in the first proviso, below clause (b)—

(I) in clause (b), for the word and figure “section 2”, the words and figure “section 2; or” shall be substituted;

(II) after clause (b), the following clause shall be inserted, namely:—

‘(c) income under the head “Profits and gains of business or profession” in cases where the income accrues or arises under the said head for the first time,’;

(III) in the long line, for the words, brackets and letter “or clause (b)”, the words, brackets and letters “or clause (b) or clause (c)” shall be substituted.

Amendment of  
section 244A.

92. In section 244A of the Income-tax Act, with effect from the 1st day of June, 2016,—

(A) in sub-section (1), for clause (a), the following clauses shall be substituted, namely:—

“(a) where the refund is out of any tax collected at source under section 206C or paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one-half per cent. for every month or part of a month comprised in the period,—

(i) from the 1st day of April of the assessment year to the date on which the refund is granted, if the return of income has been furnished on or before the due date specified under sub-section (1) of section 139; or

(ii) from the date of furnishing of return of income to the date on which the refund is granted, in a case not covered under sub-clause (i);

(aa) where the refund is out of any tax paid under section 140A, such interest shall be calculated at the rate of one-half per cent. for every month or part of a month comprised in the period, from the date of furnishing of return of income or payment of tax, whichever is later, to the date on which the refund is granted:

Provided that no interest under clause (a) or clause (aa) shall be payable, if the amount of refund is less than ten per cent. of the tax as determined under sub-section (1) of section 143 or on regular assessment.”;

(B) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) In a case where a refund arises as a result of giving effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive, in addition to the interest payable under sub-section (1), an additional interest on such amount of refund calculated at the rate of three per cent. per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted.”;

(C) in sub-section (2), after the words “interest is payable”, the words, brackets, figures and letter “under sub-sections (1) or (1A)” shall be inserted.

Amendment of  
section 249.

93. In section 249 of the Income-tax Act, in sub-section (2), in clause (b), with effect from the 1st day of April, 2017,—

(i) in the proviso, for the words “excluded, or” occurring at the end, the word “excluded:” shall be substituted;



(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that where an application has been made under sub-section (1) of section 270AA, the period beginning from the date on which the application is made, to the date on which the order rejecting the application is served on the assessee, shall be excluded, or”.

94. In section 252 of the Income-tax Act, with effect from the 1st day of June, 2016,—

Amendment of section 252.

(a) in sub-section (3), in clause (b), the words “the Senior Vice-President or” shall be omitted;

(b) sub-section (4A) shall be omitted;

(c) in sub-section (5), the words “Senior Vice-President or a” shall be omitted.

95. In section 253 of the Income-tax Act,—

Amendment of section 253.

(A) in sub-section (1), with effect from the 1st day of April, 2017,—

(i) in clause (a), after the word and figures “section 250,” the word, figures and letter “section 270A,” shall be inserted;

(ii) in clause (c), after the words and figures “or under section 263”, the words, figures and letter “or under section 270A” shall be inserted;

(B) with effect from the 1st day of June, 2016,—

(a) sub-section (2A) and sub-section (3A) shall be omitted;

(b) for sub-section (4), the following sub-section shall be substituted namely:—

“(4) The Assessing Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Commissioner (Appeals), has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).”;

(C) in sub-section (6), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2012, namely:—

“Provided that no fee shall be payable in the case of an appeal referred to in sub-section (2), or, sub-section (2A) as it stood before its amendment by the Finance Act, 2016, or, a memorandum of cross-objections referred to in sub-section (4).”.

96. In section 254 of the Income-tax Act, with effect from the 1st day of June, 2016,—

Amendment of section 254.

(a) in sub-section (2), for the words “four years from the date of the order”, the words “six months from the end of the month in which the order was passed” shall be substituted;

(b) in sub-section (2A), the words, brackets, figure and letter “or sub-section (2A)” shall be omitted.

97. In section 255 of the Income-tax Act, in sub-section (3), for the words “fifteen lakh rupees”, the words “fifty lakh rupees” shall be substituted with effect from the 1st day of June, 2016.

Amendment of section 255.



Insertion of  
new section  
270A.

Penalty for  
under-reporting  
and  
misreporting of  
income.

98. After section 270 of the Income-tax Act [as it stood immediately before its omission by section 105 of the Direct Tax Laws (Amendment) Act, 1987], the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

‘270A. (1) The Assessing Officer or the Commissioner (Appeals) or the Principal Commissioner or Commissioner may, during the course of any proceedings under this Act, direct that any person who has under-reported his income shall be liable to pay a penalty in addition to tax, if any, on the under-reported income.

(2) A person shall be considered to have under-reported his income, if—

(a) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;

(b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished;

(c) the income reassessed is greater than the income assessed or reassessed immediately before such reassessment;

(d) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of section 143;

(e) the amount of deemed total income assessed as per the provisions of section 115JB or section 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been filed;

(f) the amount of deemed total income reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income assessed or reassessed immediately before such reassessment;

(g) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

(3) The amount of under-reported income shall be,—

(i) in a case where income has been assessed for the first time,—

(a) if return has been furnished, the difference between the amount of income assessed and the amount of income determined under clause (a) of sub-section (1) of section 143;

(b) in a case where no return has been furnished,—

(A) the amount of income assessed, in the case of a company, firm or local authority; and

(B) the difference between the amount of income assessed and the maximum amount not chargeable to tax, in a case not covered in item (A);

(ii) in any other case, the difference between the amount of income reassessed or recomputed and the amount of income assessed, reassessed or recomputed in a preceding order:

Provided that where under-reported income arises out of determination of deemed total income in accordance with the provisions of section 115JB or section 115JC, the amount of total under-reported income shall be determined in accordance with the following formula—

$$(A - B) + (C - D)$$

where,

A = the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);



B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under-reported income;

C = the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = the total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of under-reported income:

Provided further that where the amount of under-reported income on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.

*Explanation.*—For the purposes of this section,—

(a) “preceding order” means an order immediately preceding the order during the course of which the penalty under sub-section (1) has been initiated;

(b) in a case where an assessment or reassessment has the effect of reducing the loss declared in the return or converting that loss into income, the amount of under-reported income shall be the difference between the loss claimed and the income or loss, as the case may be, assessed or reassessed.

(4) Subject to the provisions of sub-section (6), where the source of any receipt, deposit or investment in any assessment year is claimed to be an amount added to income or deducted while computing loss, as the case may be, in the assessment of such person in any year prior to the assessment year in which such receipt, deposit or investment appears (hereinafter referred to as “preceding year”) and no penalty was levied for such preceding year, then, the under-reported income shall include such amount as is sufficient to cover such receipt, deposit or investment.

(5) The amount referred to in sub-section (4) shall be deemed to be amount of income under-reported for the preceding year in the following order—

(a) the preceding year immediately before the year in which the receipt, deposit or investment appears, being the first preceding year; and

(b) where the amount added or deducted in the first preceding year is not sufficient to cover the receipt, deposit or investment, the year immediately preceding the first preceding year and so on.

(6) The under-reported income, for the purposes of this section, shall not include the following, namely:—

(a) the amount of income in respect of which the assessee offers an explanation and the Assessing Officer or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, is satisfied that the explanation is *bona fide* and the assessee has disclosed all the material facts to substantiate the explanation offered;

(b) the amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the Assessing Officer or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, but the method employed is such that the income cannot properly be deduced therefrom;

(c) the amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance;

(d) the amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer, where the assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction; and



(e) the amount of undisclosed income referred to in section 271AAB.

(7) The penalty referred to in sub-section (1) shall be a sum equal to fifty per cent. of the amount of tax payable on under-reported income.

(8) Notwithstanding anything contained in sub-section (6) or sub-section (7), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be equal to two hundred per cent. of the amount of tax payable on under-reported income.

(9) The cases of misreporting of income referred to in sub-section (8) shall be the following, namely:—

- (a) misrepresentation or suppression of facts;
- (b) failure to record investments in the books of account;
- (c) claim of expenditure not substantiated by any evidence;
- (d) recording of any false entry in the books of account;
- (e) failure to record any receipt in books of account having a bearing on total income; and
- (f) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

(10) The tax payable in respect of the under-reported income shall be—

(a) where no return of income has been furnished and the income has been assessed for the first time, the amount of tax calculated on the under-reported income as increased by the maximum amount not chargeable to tax as if it were the total income;

(b) where the total income determined under clause (a) of sub-section (1) of section 143 or assessed, reassessed or recomputed in a preceding order is a loss, the amount of tax calculated on the under-reported income as if it were the total income;

(c) in any other case, determined in accordance with the formula—

$$(X - Y)$$

where,

X = the amount of tax calculated on the under-reported income as increased by the total income determined under clause (a) of sub-section (1) of section 143 or total income assessed, reassessed or recomputed in a preceding order as if it were the total income; and

Y = the amount of tax calculated on the total income determined under clause (a) of sub-section (1) of section 143 or total income assessed, reassessed or recomputed in a preceding order.

(11) No addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has formed the basis of imposition of penalty in the case of the person for the same or any other assessment year.

(12) The penalty referred to in sub-section (1) shall be imposed, by an order in writing, by the Assessing Officer, the Commissioner (Appeals), the Commissioner or the Principal Commissioner, as the case may be.

99. After section 270A of the Income-tax Act as so inserted, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

“270AA.(1) An assessee may make an application to the Assessing Officer to grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, if he fulfils the following conditions, namely:—

- (a) the tax and interest payable as per the order of assessment or reassessment under sub-section (3) of section 143 or section 147, as the case may be, has been paid within the period specified in such notice of demand; and

Insertion of  
new section  
270AA.

Immunity from  
imposition of  
penalty, etc.



(b) no appeal against the order referred to in clause (a) has been filed.

(2) An application referred to in sub-section (1) shall be made within one month from the end of the month in which the order referred to in clause (a) of sub-section (1) has been received and shall be made in such form and verified in such manner as may be prescribed.

(3) The Assessing Officer shall, subject to fulfilment of the conditions specified in sub-section (1) and after the expiry of the period of filing the appeal as specified in clause (b) of sub-section (2) of section 249, grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, where the proceedings for penalty under section 270A has not been initiated under the circumstances referred to in sub-section (9) of the said section 270A.

(4) The Assessing Officer shall, within a period of one month from the end of the month in which the application under sub-section (1) is received, pass an order accepting or rejecting such application:

Provided that no order rejecting the application shall be passed unless the assessee has been given an opportunity of being heard.

(5) The order made under sub-section (4) shall be final.

(6) No appeal under section 246A or an application for revision under section 264 shall be admissible against the order of assessment or reassessment, referred to in clause (a) of sub-section (1), in a case where an order under sub-section (4) has been made accepting the application."

100. In section 271 of the Income-tax Act, after sub-section (6), the following sub-section shall be inserted with effect from the 1st day of April, 2017, namely:—

Amendment of section 271.

"(7) The provisions of this section shall not apply to and in relation to any assessment for the assessment year commencing on or after the 1st day of April, 2017."

101. In section 271A of the Income-tax Act, after the words "Without prejudice to the provisions of", the words, figures and letter "section 270A or" shall be inserted with effect from the 1st day of April, 2017.

Amendment of section 271A.

102. In the Income-tax Act, with effect from the 1st day of April, 2017, section 271AA shall be renumbered as sub-section (1) thereof and,—

Amendment of section 271AA.

(a) in sub-section (1) as so renumbered, after the words "Without prejudice to the provisions of", the word, figures and letter "section 270A or" shall be inserted;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) If any person fails to furnish the information and the document as required under sub-section (4) of section 92D, the prescribed income-tax authority referred to in the said sub-section may direct that such person shall pay, by way of penalty, a sum of five hundred thousand rupees."

103. In section 271AAB of the Income-tax Act, with effect from the 1st day of April, 2017,—

Amendment of section 271AAB.

(a) in sub-section (1), in clause (c), for the words "which shall not be less than thirty per cent. but which shall not exceed ninety per cent.", the words "computed at the rate of sixty per cent." shall be substituted;

(b) in sub-section (2), after the words "No penalty under the provisions of", the words, figures and letter "section 270A or" shall be inserted.

104. After section 271GA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017,—

Insertion of new section 271GB.

"271GB. (1) If any reporting entity referred to in section 286, which is required to furnish the report referred to in sub-section (2) of the said section, in respect of a reporting accounting year, fails to do so, the authority prescribed under that section (herein referred to as prescribed authority) may direct that such entity shall pay, by way of penalty, a sum of,—

Penalty for failure to furnish report or for furnishing inaccurate report under section 286.

(a) five thousand rupees for every day for which the failure continues, if the period of failure does not exceed one month; or



(b) fifteen thousand rupees for every day for which the failure continues beyond the period of one month.

(2) Where any reporting entity referred to in section 286 fails to produce the information and documents within the period allowed under sub-section (6) of the said section, the prescribed authority may direct that such entity shall pay, by way of penalty, a sum of five thousand rupees for every day during which the failure continues, beginning from the day immediately following the day on which the period for furnishing the information and document expires.

(3) If the failure referred to in sub-section (1) or sub-section (2) continues after an order has been served on the entity, directing it to pay the penalty under sub-section (1) or, as the case may be, under sub-section (2), then, notwithstanding anything contained in sub-section (1) or sub-section (2), the prescribed authority may direct that such entity shall pay, by way of penalty, a sum of fifty thousand rupees for every day for which such failure continues beginning from the date of service of such order.

(4) Where a reporting entity referred to in section 286 provides inaccurate information in the report furnished in accordance with sub-section (2) of the said section and where—

(a) the entity has knowledge of the inaccuracy at the time of furnishing the report but fails to inform the prescribed authority; or

(b) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within a period of fifteen days of such discovery; or

(c) the entity furnishes inaccurate information or document in response to the notice issued under sub-section (6) of section 286,

then, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of five lakh rupees.”

Amendment of  
section 272A.

105. In section 272A of the Income-tax Act, with effect from the 1st day of April, 2017,—

(i) in sub-section (1),—

(a) in clause (c), for the words “place or time,” the words “place or time; or” shall be substituted;

(b) after clause (c) and before the long line, the following clause shall be inserted, namely:—

“(d) fails to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or fails to comply with a direction issued under sub-section (2A) of section 142;”

(ii) in sub-section (3), after clause (a), the following clause shall be inserted, namely:—

“(aa) in a case falling under clause (d) of sub-section (1), by the income-tax authority who had issued the notice or direction referred to therein;”

Amendment of  
section 273A.

106. In section 273A of the Income-tax Act,—

(i) with effect from the 1st day of April, 2017,—

(a) in sub-section (1),—

(I) in clause (ii), after the words “or imposable on a person under”, the words, figures and letter “section 270A or” shall be inserted;

(II) in the *Explanation*, after the words “as not to attract the provisions of”, the words, figures and letter “section 270A or” shall be inserted;



(b) in sub-section (2), in clause (b), after the words "if in a case falling under", the words, figures and letter "section 270A or" shall be inserted;

(ii) after sub-section (4), the following sub-section shall be inserted with effect from the 1st day of June, 2016, namely:—

"(4A) The order under sub-section (4), either accepting or rejecting the application in full or in part, shall be passed within a period of twelve months from the end of the month in which the application under the said sub-section is received by the Principal Commissioner or the Commissioner:

Provided that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:

Provided further that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017."

107. In section 273AA of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted with effect from the 1st day of June, 2016, namely:—

Amendment of section 273AA.

"(3A) The order under sub-section (3), either accepting or rejecting the application in full or in part, shall be passed within a period of twelve months from the end of the month in which the application under the said sub-section is received by the Principal Commissioner or the Commissioner:

Provided that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:

Provided further that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017."

108. In section 273B of the Income-tax Act, after the word, figures and letters "section 271GA," the word, figures and letters "section 271GB," shall be inserted with effect from the 1st day of April, 2017.

Amendment of section 273B.

109. In section 276C of the Income-tax Act, with effect from the 1st day of April, 2017, in sub-section (1),—

Amendment of section 276C.

(a) in the opening portion, for the words "or imposable", the words "or imposable, or under-reports his income," shall be substituted;

(b) in clause (i), after the words "amount sought to be evaded", the words "or tax on under-reported income" shall be substituted.

110. In section 279 of the Income-tax Act, in sub-section (1A), after the words "or imposable on him under", the words, figures and letter "section 270A or" shall be inserted with effect from the 1st day of April, 2017.

Amendment of section 279.

111. In section 281B of the Income-tax Act, with effect from the 1st day of June, 2016,—

Amendment of section 281B.

(a) in sub-section (1), the *Explanation* shall be omitted;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

'(3) Where the assessee furnishes a guarantee from a scheduled bank for an amount not less than the fair market value of the property provisionally attached under sub-section (1), the Assessing Officer shall, by an order in writing, revoke such attachment:

Provided that where the Assessing Officer is satisfied that a guarantee from a scheduled bank for an amount lower than the fair market value of the property is sufficient to protect the interests of the revenue, he may accept such guarantee and revoke the attachment.

(4) The Assessing Officer may, for the purposes of determining the value of the property provisionally attached under sub-section (1), make a reference to the Valuation Officer referred to in section 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate to the Assessing Officer within a period of thirty days from the date of receipt of such reference.



(5) An order revoking the provisional attachment under sub-section (3) shall be made—

(i) within forty-five days from the date of receipt of the guarantee, where a reference to the Valuation Officer has been made under sub-section (4); or

(ii) within fifteen days from the date of receipt of guarantee in any other case.

(6) Where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay that sum within the time specified in the notice of demand, the Assessing Officer may invoke the guarantee furnished under sub-section (3), wholly or in part, to recover the amount.

(7) The Assessing Officer shall, in the interests of the revenue, invoke the bank guarantee, if the assessee fails to renew the guarantee referred to in sub-section (3), or fails to furnish a new guarantee from a scheduled bank for an equal amount, fifteen days before the expiry of the guarantee referred to in sub-section (3).

(8) The amount realised by invoking the guarantee referred to in sub-section (3) shall be adjusted against the existing demand which is payable by the assessee and the balance amount, if any, shall be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner in the branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 at the place where the office of the Principal Commissioner or Commissioner is situate.

2 of 1934.

(9) Where the Assessing Officer is satisfied that the guarantee referred to in sub-section (3) is not required any more to protect the interests of the revenue, he shall release that guarantee forthwith.

*Explanation.*—For the purposes of this section, the expression “scheduled bank” shall mean a bank included in the Second Schedule to the Reserve Bank of India Act, 1934.

2 of 1934.

Amendment of  
section 282A.

112. In section 282A of the Income-tax Act, in sub-section (1), for the words “signed in manuscript by that authority”, the words “signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed” shall be substituted with effect from the 1st day of June, 2016.

Insertion of  
new section  
286.

Furnishing of  
report in  
respect of  
international  
group.

113. After section 285BA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

‘286.(1) Every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority (herein referred to as prescribed authority) in the form and manner, on or before such date, as may be prescribed,—

(a) whether it is the alternate reporting entity of the international group; or

(b) the details of the parent entity or the alternate reporting entity, if any, of the international group, and the country or territory of which the said entities are resident.

(2) Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority on or before the due date specified under sub-section (1) of section 139, for furnishing the return of income for the relevant accounting year, in the form and manner as may be prescribed.



(3) For the purposes of sub-section (2), the report in respect of an international group shall include,—

(a) the aggregate information in respect of the amount of revenue, profit or loss before income-tax, amount of income-tax paid, amount of income-tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates;

(b) the details of each constituent entity of the group including the country or territory in which such constituent entity is incorporated or organised or established and the country or territory where it is resident;

(c) the nature and details of the main business activity or activities of each constituent entity; and

(d) any other information as may be prescribed.

(4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-section (2), shall furnish the report referred to in the said sub-section, in respect of the international group for a reporting accounting year, if the parent entity is resident of a country or territory,—

(a) with which India does not have an agreement providing for exchange of the report of the nature referred to in sub-section (2); or

(b) there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity:

Provided that where there are more than one such constituent entities of the group, resident in India, the report shall be furnished by any one constituent entity, if,—

(a) the international group has designated such entity to furnish the report in accordance with the provisions of sub-section (2) on behalf of all the constituent entities resident in India; and

(b) the information has been conveyed in writing on behalf of the group to the prescribed authority.

(5) Nothing contained in sub-section (4) shall apply, if, an alternate reporting entity of the international group has furnished a report of the nature referred to in sub-section (2), with the tax authority of the country or territory in which such entity is resident, on or before the date specified in the said sub-section and the following conditions are satisfied, namely:—

(a) the report is required to be furnished under the law for the time being in force in the said country or territory;

(b) the said country or territory has entered into an agreement with India providing for exchange of the said report;

(c) the prescribed authority has not conveyed any systemic failure in respect of the said country or territory to any constituent entity of the group that is resident in India;

(d) the said country or territory has been informed in writing by the constituent entity that it is the alternate reporting entity on behalf of the international group; and



(e) the prescribed authority has been informed by the entities referred to in sub-section (4) in accordance with sub-section (1).

(6) The prescribed authority may, for the purposes of determining the accuracy of the report furnished by any reporting entity, by issue of a notice in writing, require the entity to produce such information and document as may be specified in the notice within thirty days of the date of receipt of the notice:

Provided that the prescribed authority may, on an application made by such entity, extend the period of thirty days by a further period not exceeding thirty days.

(7) The provisions of this section shall not apply in respect of an international group for an accounting year, if the total consolidated group revenue, as reflected in the consolidated financial statement for the accounting year preceding such accounting year does not exceed the amount, as may be prescribed.

(8) The provisions of this section shall be applied in accordance with such guidelines and subject to such conditions, as may be prescribed.

(9) For the purposes of this section,—

(a) “accounting year” means,—

(i) a previous year, in a case where the parent entity or alternate reporting entity is resident in India; or

(ii) an annual accounting period, with respect to which the parent entity of the international group prepares its financial statements under any law for the time being in force or the applicable accounting standards of the country or territory of which such entity is resident, in any other case;

(b) “agreement” means an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A or any agreement as may be notified by the Central Government in this behalf;

(c) “alternate reporting entity” means any constituent entity of the international group that has been designated by such group, in the place of the parent entity, to furnish the report of the nature referred to in sub-section (2) in the country or territory in which the said constituent entity is resident on behalf of such group;

(d) “constituent entity” means,—

(i) any separate entity of an international group that is included in the consolidated financial statement of the said group for financial reporting purposes, or may be so included for the said purpose, if the equity share of any entity of the international group were to be listed on a stock exchange;

(ii) any such entity that is excluded from the consolidated financial statement of the international group solely on the basis of size or materiality; or

(iii) any permanent establishment of any separate business entity of the international group included in clause (i) or clause (ii), if such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;



(e) "group" includes a parent entity and all the entities in respect of which, for the reason of ownership or control, a consolidated financial statement for financial reporting purposes,—

(i) is required to be prepared under any law for the time being in force or the accounting standards of the country or territory of which the parent entity is resident; or

(ii) would have been required to be prepared had the equity shares of any of the enterprises were listed on a stock exchange in the country or territory of which the parent entity is resident;

(f) "consolidated financial statement" means the financial statement of an international group in which the assets, liabilities, income, expenses and cash flows of the parent entity and the constituent entities are presented as those of a single economic entity;

(g) "international group" means any group that includes,—

(i) two or more enterprises which are resident of different countries or territories; or

(ii) an enterprise, being a resident of one country or territory, which carries on any business through a permanent establishment in other countries or territories;

(h) "parent entity" means a constituent entity, of an international group holding, directly or indirectly, an interest in one or more of the other constituent entities of the international group, such that,—

(i) it is required to prepare a consolidated financial statement under any law for the time being in force or the accounting standards of the country or territory of which the entity is resident; or

(ii) it would have been required to prepare a consolidated financial statement had the equity shares of any of the enterprises were listed on a stock exchange,

and, there is no other constituent entity of such group which, due to ownership of any interest, directly or indirectly, in the first mentioned constituent entity, is required to prepare a consolidated financial statement, under the circumstances referred to in clause (i) or clause (ii), that includes the separate financial statement of the first mentioned constituent entity;

(i) "permanent establishment" shall have the meaning assigned to it in clause (iiia) of section 92F;

(j) "reporting accounting year" means the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-section (2);

(k) "reporting entity" means the constituent entity including the parent entity or the alternate reporting entity, that is required to furnish a report of the nature referred to in sub-section (2);

(l) "systemic failure" with respect to a country or territory means that the country or territory has an agreement with India providing for exchange of report of the nature referred to in sub-section (2), but—

(i) in violation of the said agreement, it has suspended automatic exchange; or



(ii) has persistently failed to automatically provide to India the report in its possession in respect of any international group having a constituent entity resident in India.’

Amendment of  
section 288.

114. In section 288 of the Income-tax Act, in sub-section (4), in clause (b), after the word and figures “section 271”, the words, brackets, letters and figures “clause (d) of sub-section (1) of section 272A or” shall be inserted with effect from the 1st day of April, 2017.

Amendment of  
Fourth  
Schedule.

115. In the Fourth Schedule to the Income-tax Act, in Part A, with effect from the 1st day of April, 2017, in rule 8,—

(i) in clause (iii), for the words “such other employer” occurring at the end, the words “such other employer; or” shall be substituted;

(ii) after clause (iii) and before the *Explanation*, the following clause shall be inserted, namely:—

“(iv) if the entire balance standing to the credit of the employee is transferred to his account under a pension scheme referred to in section 80CCD and notified by the Central Government.”.

#### CHAPTER IV

##### INDIRECT TAXES

##### *Customs*

Amendment  
of section 2.

116. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 2,—

52 of 1962.

(i) for clause (43), the following clause shall be substituted, namely:—

“(43) “warehouse” means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 or a special warehouse licensed under section 58A;”;

(ii) clause (45) shall be omitted.

Amendment  
of chapter  
heading of  
Chapter III.

117. In the Customs Act, in Chapter III, for the chapter heading, the following chapter heading\* shall be substituted, namely:—

“APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, ETC.”.

Omission of  
section 9.

118. In the Customs Act, section 9 shall be omitted.

Amendment of  
section 25.

119. In the Customs Act, in section 25,—

(i) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Every notification issued under sub-section (1) or sub-section (2A) shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette.”;

(ii) sub-section (5) shall be omitted.

Amendment of  
section 28.

120. In the Customs Act, in section 28,—

(a) in the marginal heading, for the words “duties not levied or short-levied”, the words “duties not levied or not paid or short-levied or short-paid” shall be substituted;



(b) in sub-section (1),—

(i) in the opening paragraph, for the words “duty has not been levied or has been short-levied”, the words “duty has not been levied or not paid or has been short-levied or short-paid” shall be substituted;

(ii) in clause (a),—

(A) for the words “one year”, the words “two years” shall be substituted;

(B) after the words “so levied”, the words “or paid” shall be inserted;

(c) in sub-section (3), for the words “one year”, the words “two years” shall be substituted;

(d) in sub-section (4),—

(i) in the opening paragraph, for the words “levied or has been short-levied”, the words “levied or not paid or has been short-levied or short-paid” shall be substituted;

(ii) in the long line, for the words “so levied”, the words “so levied or not paid” shall be substituted;

(e) in sub-section (5), for the words “duty has not been levied or has been short-levied”, the words “duty has not been levied or not paid or has been short-levied or short-paid” shall be substituted;

(f) in sub-section (6), in item (ii), for the words “one year”, the words “two years” shall be substituted;

(g) in sub-section (7), for the words “one year”, the words “two years” shall be substituted;

(h) in *Explanation 1*, in clause (a), for the words “not levied”, the words “not levied or not paid or short-levied or short-paid” shall be substituted.

121. In the Customs Act, in section 47,—

Amendment of  
section 47.

(a) in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.”;

(b) in sub-section (2), for the portion beginning with the words “Where the importer” and ending with the words “payment of the said duty”, the following shall be substituted, namely:—

“Where the importer fails to pay the import duty, either in full or in part, within two days (excluding holidays)—

(a) from the date on which the bill of entry is returned to him for payment of duty; or

(b) in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf,

he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not below ten per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.”

122. In the Customs Act, section 51 shall be renumbered as sub-section (1) thereof, and—

Amendment of  
section 51.



(a) in sub-section (1) as so renumbered, the following proviso shall be inserted, namely:—

“Provided that the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules.”;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at such rate, not below five per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.”.

Substitution of new section for section 53.

123. In the Customs Act, for section 53, the following section shall be substituted, namely:—

Transit of certain goods without payment of duty.

“53. Subject to the provisions of section 11, where any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or to any customs station, the proper officer may allow the goods and the conveyance to transit without payment of duty, subject to such conditions, as may be prescribed.”.

Substitution of new section for section 57.

124. In the Customs Act, for section 57, the following section shall be substituted, namely:—

Licensing of public warehouses.

“57. The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, licence a public warehouse wherein dutiable goods may be deposited.”.

Substitution of new sections 58, 58A and 58B for section 58.

125. In the Customs Act, for section 58, the following sections shall be substituted, namely:—

Licensing of private warehouses.

“58. The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, licence a private warehouse wherein dutiable goods imported by or on behalf of the licensee may be deposited.

Licensing of special warehouses.

58A. (1) The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, licence a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer and no person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.

(2) The Board may, by notification in the Official Gazette, specify the class of goods which shall be deposited in the special warehouse licensed under sub-section (1).

Cancellation of licence.

58B. (1) Where a licensee contravenes any of the provisions of this Act or the rules or regulations made thereunder or breaches any of the conditions of the licence, the Principal Commissioner of Customs or Commissioner of Customs may cancel the licence granted under section 57 or section 58 or section 58A:

Provided that before any licence is cancelled, the licensee shall be given a reasonable opportunity of being heard.



(2) The Principal Commissioner of Customs or Commissioner of Customs may, without prejudice to any other action that may be taken against the licensee and the goods under this Act or any other law for the time being in force, suspend operation of the warehouse during the pendency of an enquiry under sub-section (1).

(3) Where the operation of a warehouse is suspended under sub-section (2), no goods shall be deposited in such warehouse during the period of suspension:

Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse.

(4) Where the licence issued under section 57 or section 58 or section 58A is cancelled, the goods warehoused shall, within seven days from the date on which order of such cancellation is served on the licensee or within such extended period as the proper officer may allow, be removed from such warehouse to another warehouse or be cleared for home consumption or export:

Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse till they are removed to another warehouse or cleared for home consumption or for export, during such period.”.

126. In the Customs Act, for section 59, the following section shall be substituted, namely:—

Substitution of new section for section 59.

“59. (1) The importer of any goods in respect of which a bill of entry for warehousing has been presented under section 46 and assessed to duty under section 17 or section 18 shall execute a bond in a sum equal to thrice the amount of the duty assessed on such goods, binding himself—

Warehousing bond.

(a) to comply with all the provisions of the Act and the rules and regulations made thereunder in respect of such goods;

(b) to pay, on or before the date specified in the notice of demand, all duties and interest payable under sub-section (2) of section 61; and

(c) to pay all penalties and fines incurred for the contravention of the provisions of this Act or the rules or regulations, in respect of such goods.

(2) For the purposes of sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to execute a general bond in such amount as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.

(3) The importer shall, in addition to the execution of a bond under sub-section (1) or sub-section (2), furnish such security as may be prescribed.

(4) Any bond executed under this section by an importer in respect of any goods shall continue to be in force notwithstanding the transfer of the goods to another warehouse.

(5) Where the whole of the goods or any part thereof are transferred to another person, the transferee shall execute a bond in the manner specified in sub-section (1) or sub-section (2) and furnish security as specified under sub-section (3).”.

127. In the Customs Act, for section 60, the following section shall be substituted, namely:—

Substitution of new section for section 60.

“60. (1) When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting removal of the goods from a customs station for the purpose of deposit in a warehouse.

Permission for removal of goods for deposit in warehouse.



(2) Where an order is made under sub-section (1), the goods shall be deposited in a warehouse in such manner as may be prescribed.”.

Substitution of  
new section for  
section 61.

128. In the Customs Act, for section 61, the following section shall be substituted, namely:—

Period for  
which goods  
may remain  
warehoused.

‘61.(1) Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed,—

(a) in the case of capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their clearance from the warehouse;

(b) in the case of goods other than capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their consumption or clearance from the warehouse; and

(c) in the case of any other goods, till the expiry of one year from the date on which the proper officer has made an order under sub-section (1) of section 60:

Provided that in the case of any goods referred to in this clause, the Principal Commissioner of Customs or Commissioner of Customs may, on sufficient cause being shown, extend the period for which the goods may remain in the warehouse, by not more than one year at a time:

Provided further that where such goods are likely to deteriorate, the period referred to in the first proviso may be reduced by the Principal Commissioner of Customs or Commissioner of Customs to such shorter period as he may deem fit.

(2) Where any warehoused goods specified in clause (c) of sub-section (1) remain in a warehouse beyond a period of ninety days from the date on which the proper officer has made an order under sub-section (1) of section 60, interest shall be payable at such rate as may be fixed by the Central Government under section 47, on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehoused goods:

Provided that if the Board considers it necessary so to do, in the public interest, it may,—

(a) by order, and under the circumstances of an exceptional nature, to be specified in such order, waive the whole or any part of the interest payable under this section in respect of any warehoused goods;

(b) by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section;

(c) by notification in the Official Gazette, specify the class of goods in respect of which the interest shall be chargeable from the date on which the proper officer has made an order under sub-section (1) of section 60.

*Explanation.*— For the purposes of this section,—

(i) “electronic hardware technology park unit” means a unit established under the Electronic Hardware Technology Park Scheme notified by the Government of India;



1 of 1944.

(ii) "hundred per cent. export oriented undertaking" has the same meaning as in clause (ii) of *Explanation 2* to sub-section (1) of section 3 of the Central Excise Act, 1944; and

(iii) "software technology park unit" means a unit established under the Software Technology Park Scheme notified by the Government of India.

129. In the Customs Act, sections 62 and 63 shall be omitted.

Omission of sections 62 and 63.

130. In the Customs Act, for section 64, the following section shall be substituted, namely:—

Substitution of new section for section 64.

"64. The owner of any warehoused goods may, after warehousing the same,—

Owner's right to deal with warehoused goods.

(a) inspect the goods;

(b) deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;

(c) sort the goods; or

(d) show the goods for sale."

131. In the Customs Act, in section 65, in sub-section (1), for the words "With the sanction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs and subject to such conditions and on payment of such fees", the words "With the permission of the Principal Commissioner of Customs or Commissioner of Customs and subject to such conditions" shall be substituted.

Amendment of section 65.

132. In the Customs Act, in section 68,—

Amendment of section 68.

(i) in the opening paragraph, for the words "The importer of any warehoused goods may clear them", the words "Any warehoused goods may be cleared from the warehouse" shall be substituted;

(ii) for clause (b), the following clause shall be substituted, namely:—

"(b) the import duty, interest, fine and penalties payable in respect of such goods have been paid; and";

(iii) in the first proviso, the words "rent, interest, other charges and" shall be omitted.

133. In the Customs Act, in section 69,—

Amendment of section 69.

(i) in the marginal heading, for the word "exportation", the word "export" shall be substituted;

(ii) in sub-section (1),—

(A) for clause (b), the following clause shall be substituted, namely:—

"(b) the export duty, fine and penalties payable in respect of such goods have been paid; and";

(B) in clause (c), for the word "exportation", the word "export" shall be substituted.

134. In the Customs Act, in section 71, for the word "re-exportation", the word "export" shall be substituted.

Amendment of section 71.

135. In the Customs Act, in section 72,—

Amendment of section 72.

(a) in sub-section (1),—

(i) clause (c) shall be omitted;



(ii) in clause (d), for the word "exportation", the words "export or" shall be substituted;

(iii) in the long line, for the words "all penalties, rent, interest and other charges", the words "interest, fine and penalties" shall be substituted;

(b) in sub-section (2), for the word "select", the words "deem fit" shall be substituted.

Amendment of section 73.

136. In the Customs Act, in section 73, after the words "exported or", the words "transferred or" shall be inserted.

Insertion of new section 73A.

137. In the Customs Act, after section 73, the following section shall be inserted, namely:—

Custody and removal of warehoused goods.

"73A. (1) All warehoused goods shall remain in the custody of the person who has been granted a licence under section 57 or section 58 or section 58A until they are cleared for home consumption or are transferred to another warehouse or are exported or removed as otherwise provided under this Act.

(2) The responsibilities of the person referred to in sub-section (1) who has custody of the warehoused goods shall be such as may be prescribed.

(3) Where any warehoused goods are removed in contravention of section 71, the licensee shall be liable to pay duty, interest, fine and penalties without prejudice to any other action that may be taken against him under this Act or any other law for the time being in force."

Amendment of section 156.

138. In the Customs Act, in section 156, in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

"(c) the due date and the manner of making deferred payment of duties, taxes, cesses or any other charges under sections 47 and 51."

Amendment of notifications issued under section 25 of Act 52 of 1962.

139. (1) The notifications of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 367 (E), dated the 27th April, 2000, G.S.R. 292(E), dated the 19th April, 2002, G.S.R. 281(E), dated the 1st April, 2003, G.S.R. 604 (E), dated the 10th September, 2004, G.S.R. 606(E), dated the 10th September, 2004 and G.S.R. 260(E), dated the 1st May, 2006 issued under sub-section (1) of section 25 of the Customs Act, 1962 by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified against each of them in column (3) of the Second Schedule, on and from the corresponding date mentioned in column (4) of that Schedule, retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be, and always to have been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section (1) of section 25 of the Customs Act, 1962 retrospectively, at all material times.

(3) The refund shall be made of all such safeguard duty which has been collected, but would not have been so collected, had the amendments made in sub-section (1) been in force at all material times and such refund shall be subject to the provisions of section 27 of the Customs Act, 1962.

(4) Notwithstanding anything contained in section 27 of the Customs Act, 1962, an application for the claim of refund of safeguard duty under sub-section (3) shall be made within a period of one year from the date on which the Finance Bill, 2016 receives the assent of the President.



*Customs Tariff*

- 51 of 1975. **140.** In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), section 8C shall be omitted. Omission of section 8C.
- 141.** In the Customs Tariff Act, the First Schedule shall,— Amendment of First Schedule.
- (i) be amended in the manner specified in the Third Schedule;
- (ii) be also amended in the manner specified in the Fourth Schedule with effect from the 1st day of January, 2017.

*Excise*

- 1 of 1944. **142.** In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 5A,— Amendment of section 5A.
- (i) for sub-section (5), the following sub-section shall be substituted, namely:—
- “(5) Every notification issued under sub-section (1) or sub-section (2A) shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette.”;
- (ii) sub-section (6) shall be omitted.
- 143.** In the Central Excise Act, in section 11A, for the words “one year”, wherever they occur, the words “two years” shall be substituted. Amendment of section 11A.
- 144.** In the Central Excise Act, in section 37B, for the words “such goods”, the words “such goods or for the implementation of any other provision of this Act” shall be substituted. Amendment of section 37B.
- 145.** In the Central Excise Act, the Third Schedule shall be amended— Amendment of Third Schedule.
- (i) in the manner specified in the Fifth Schedule;
- (ii) in the manner specified in the Sixth Schedule, with effect from the 1st day of January, 2017.

*Excise Tariff*

- 5 of 1986. **146.** In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act), the First Schedule shall be amended— Amendment of First Schedule.
- (i) in the manner specified in the Seventh Schedule;
- (ii) in the manner specified in the Eighth Schedule, with effect from the 1st day of January, 2017.
- 147.** In the Central Excise Tariff Act, the Second Schedule shall be amended in the manner specified in the Ninth Schedule, with effect from the 1st day of January, 2017. Amendment of Second Schedule.

## CHAPTER V

## SERVICE TAX

- 32 of 1994. **148.** In the Finance Act, 1994 (hereinafter referred to as the 1994 Act), in section 65B,— Amendment of section 65B.
- (a) clause (11) shall be omitted;
- (b) in clause (44), in *Explanation 2*, in sub-clause (ii), for item (a), the following item shall be substituted, namely:—
- “(a) by a lottery distributor or selling agent on behalf of the State Government, in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner, in accordance with the provisions of the Lotteries (Regulation) Act, 1998;”.
- 17 of 1998.



Amendment of  
section 66D.

149. In the 1994 Act, in section 66D,—

(a) clause (l) shall be omitted;

(b) with effect from the 1st day of June, 2016—

(i) in clause (o), sub-clause (i) shall be omitted;

(ii) in clause (p), sub-clause (ii) shall be omitted.

Amendment  
of section  
66E.

150. In the 1994 Act, in section 66E, after clause (i), the following clause shall be inserted, namely:—

“(j) assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof.”

Amendment  
of section  
67A.

151. In the 1994 Act, in section 67A, the existing section shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) The time or the point in time with respect to the rate of service tax shall be such as may be prescribed.”

Amendment  
of section 73.

152. In the 1994 Act, in section 73,—

(i) in sub-sections (1), (1A), (2A) and (3), for the words “eighteen months”, wherever they occur, the words “thirty months” shall be substituted;

(ii) in sub-section (4B), in clause (a), for the words “whose limitation is specified as eighteen months in”, the words “falling under” shall be substituted.

Amendment  
of section 75.

153. In the 1994 Act, in section 75, for the words “Provided that”, the following shall be substituted, namely:—

“Provided that in the case of a person who collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government, on or before the date on which such payment is due, the Central Government may, by notification in the Official Gazette, specify such other rate of interest, as it may deem necessary:

Provided further that”.

Amendment  
of section  
78A.

154. In the 1994 Act, in section 78A, the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the removal of doubts, it is hereby clarified that where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, and the proceedings with respect to a notice issued under sub-section (1) of section 73 or the proviso to sub-section (1) of section 73 is concluded in accordance with the provisions of clause (i) of the first proviso to section 76 or clause (i) of the second proviso to section 78, as the case may be, the proceedings pending against any person under this section shall also be deemed to have been concluded.”

Amendment of  
section 89.

155. In the 1994 Act, in section 89, in sub-section (1), for the words “fifty lakh rupees”, at both the places where they occur, the words “two hundred lakh rupees” shall be substituted.

Amendment of  
section 90.

156. In the 1994 Act, in section 90, sub-section (2) shall be omitted.

Amendment of  
section 91.

157. In the 1994 Act, in section 91,—

(a) in sub-section (1), the words, brackets and letter “clause (i) or” shall be omitted;

(b) sub-section (3) shall be omitted.

Amendment of  
section 93A.

158. In the 1994 Act, in section 93A, for the word “prescribed”, the words “prescribed or specified by notification in the Official Gazette” shall be substituted.

Insertion of new  
sections 101,  
102 and 103.

159. In the 1994 Act, after section 100, the following sections shall be inserted, namely:—



"101. (1) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing from the 1st day of July, 2012 and ending with the 29th day of January, 2014 (both days inclusive) in respect of taxable services provided to an authority or a board or any other body—

Special provision for exemption in certain cases relating to construction of canal, dam, etc.

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by the Government,

with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation works.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.

102. (1) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing from the 1st day of April, 2015 and ending with the 29th day of February, 2016 (both days inclusive), in respect of taxable services provided to the Government, a local authority or a Governmental authority, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of—

Special provision for exemption in certain cases relating to construction of Government buildings.

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry or any other business or profession;

(b) a structure meant predominantly for use as—

(i) an educational establishment;

(ii) a clinical establishment; or

(iii) an art or cultural establishment;

(c) a residential complex predominantly meant for self-use or for the use of their employees or other persons specified in *Explanation 1* to clause (44) of section 65B of the said Act,

under a contract entered into before the 1st day of March, 2015 and on which appropriate stamp duty, where applicable, had been paid before that date.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.

103. (1) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing from the 1st day of April, 2015 and ending with the 29th day of February, 2016 (both days inclusive), in respect of services provided by way of construction, erection, commissioning or installation of original works pertaining to an airport or port, under a contract which had been entered into before the 1st day of March, 2015 and on which appropriate stamp duty, where applicable, had been paid before that date, subject to the condition that Ministry of Civil Aviation or, as the case may be, the Ministry of Shipping in the Government of India certifies that the contract had been entered into before the 1st day of March, 2015.

Special provision for exemption in certain cases relating to construction of airport or port.



(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President."

Amendment of  
notification  
issued under  
section 93A of  
Finance Act,  
1994.

160. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 519(E), dated the 29th June, 2012 issued under section 93A of the Finance Act, 1994 granting rebate of service tax paid on the taxable services which are received by an exporter of goods and used for export of goods, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Tenth Schedule, on and from and up to the corresponding dates specified in column (3) of the Schedule, and accordingly, any action taken or anything done or purported to have taken or done under the said notification as so amended, shall be deemed to be, and always to have been, for all purposes, as validly and effectively taken or done as if the said notification as amended by this sub-section had been in force at all material times. 32 of 1994.

(2) Rebate of all such service tax shall be granted which has been denied, but which would not have been so denied had the amendment made by sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in the Finance Act, 1994, an application for the claim of rebate of service tax under sub-section (2) shall be made within the period of one month from the date of commencement of the Finance Act, 2016. 32 of 1994.

## CHAPTER VI

### KRISHI KALYAN CESS

Krishi Kalyan  
Cess.

161. (1) This Chapter shall come into force on the 1st day of June, 2016.

(2) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the *Krishi Kalyan Cess*, as service tax on all or any of the taxable services at the rate of 0.5 per cent. on the value of such services for the purposes of financing and promoting initiatives to improve agriculture or for any other purpose relating thereto.

(3) The *Krishi Kalyan Cess* leviable under sub-section (2) shall be in addition to any cess or service tax leviable on such taxable services under Chapter V of the Finance Act, 1994, or under any other law for the time being in force. 32 of 1994.

(4) The proceeds of the *Krishi Kalyan Cess* levied under sub-section (2) shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the *Krishi Kalyan Cess* for such purposes specified in sub-section (2), as it may consider necessary.

(5) The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax, interest and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the *Krishi Kalyan Cess* on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under the said Chapter or the rules made thereunder, as the case may be. 32 of 1994.

## CHAPTER VII

### INFRASTRUCTURE CESS

Infrastructure  
Cess.

162. (1) In the case of goods specified in the Eleventh Schedule, being goods manufactured or produced, there shall be levied and collected for the purposes of the Union, a duty of excise, to be called the Infrastructure Cess, at the rates specified in the said Schedule for the purposes of financing infrastructure projects.



1 of 1944.

(2) The cess leviable under sub-section (1), chargeable on the goods specified in the Eleventh Schedule shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act, 1944 or any other law for the time being in force.

1 of 1944.

(3) The provisions of the Central Excise Act, 1944 and the rules made thereunder, including those relating to assessment, non-levy, short-levy, refunds, interest, appeals, offences and penalties, shall, as far as may be, apply in relation to the levy and collection of the cess leviable under sub-section (1) in respect of the goods specified in the Eleventh Schedule as they apply in relation to the levy and collection of the duties of excise on such goods under the said Act or the rules, as the case may be.

(4) The cess leviable under sub-section (1) shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States.

## CHAPTER VIII

## EQUALISATION LEVY

163. (1) This Chapter extends to the whole of India except the State of Jammu and Kashmir.

Extent, commencement and application.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It shall apply to consideration received or receivable for specified services provided on or after the commencement of this Chapter.

164. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act;

(b) "Assessing Officer" means the Income-tax Officer or Assistant Commissioner of Income-tax or Deputy Commissioner of Income-tax or Joint Commissioner of Income-tax or Additional Commissioner of Income-tax who is authorised by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Chapter;

54 of 1963.

(c) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

(d) "equalisation levy" means the tax leviable on consideration received or receivable for any specified service under the provisions of this Chapter;

43 of 1961.

(e) "Income-tax Act" means the Income-tax Act, 1961;

(f) "online" means a facility or service or right or benefit or access that is obtained through the internet or any other form of digital or telecommunication network;

(g) "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on;

(h) "prescribed" means prescribed by rules made under this Chapter;

(i) "specified service" means online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf;

(j) words and expressions used but not defined in this Chapter and defined in the Income-tax Act, or the rules made thereunder, shall have the meanings respectively assigned to them in that Act.

165. (1) On and from the date of commencement of this Chapter, there shall be charged an equalisation levy at the rate of six per cent. of the amount of consideration for any specified service received or receivable by a person, being a non-resident from—

Charge of equalisation levy.



- (i) a person resident in India and carrying on business or profession; or
- (ii) a non-resident having a permanent establishment in India.

(2) The equalisation levy under sub-section (1) shall not be charged, where—

(a) the non-resident providing the specified service has a permanent establishment in India and the specified service is effectively connected with such permanent establishment;

(b) the aggregate amount of consideration for specified service received or receivable in a previous year by the non-resident from a person resident in India and carrying on business or profession, or from a non-resident having a permanent establishment in India, does not exceed one lakh rupees; or

(c) where the payment for the specified service by the person resident in India, or the permanent establishment in India is not for the purposes of carrying out business or profession.

Collection and  
recovery of  
equalisation  
levy.

166. (1) Every person, being a resident and carrying on business or profession or a non-resident having a permanent establishment in India (hereafter in this Chapter referred to as assessee) shall deduct the equalisation levy from the amount paid or payable to a non-resident in respect of the specified service at the rate specified in section 165, if the aggregate amount of consideration for specified service in a previous year exceeds one lakh rupees.

(2) The equalisation levy so deducted during any calendar month in accordance with the provisions of sub-section (1) shall be paid by every assessee to the credit of the Central Government by the seventh day of the month immediately following the said calendar month.

(3) Any assessee who fails to deduct the levy in accordance with the provisions of sub-section (1) shall, notwithstanding such failure, be liable to pay the levy to the credit of the Central Government in accordance with the provisions of sub-section (2).

Furnishing of  
statement.

167. (1) Every assessee shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board in this behalf, a statement in such form, verified in such manner and setting forth such particulars as may be prescribed, in respect of all specified services during such financial year.

(2) An assessee who has not furnished the statement within the time prescribed under sub-section (1) or having furnished a statement under sub-section (1), notices any omission or wrong particular therein, may furnish a statement or a revised statement, as the case may be, at any time before the expiry of two years from the end of the financial year in which the specified service was provided.

(3) Where any assessee fails to furnish the statement under sub-section (1) within the prescribed time, the Assessing Officer may serve a notice upon such assessee requiring him to furnish the statement in the prescribed form, verified in the prescribed manner and setting forth such particulars, within such time, as may be prescribed.

Processing of  
statement.

168. (1) Where a statement has been made under section 167 by the assessee, such statement shall be processed in the following manner, namely:—

(a) the equalisation levy shall be computed after making the adjustment for any arithmetical error in the statement;

(b) the interest, if any, shall be computed on the basis of sum deductible as computed in the statement;

(c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the amount computed under clause (b) against any amount paid under sub-section (2) of section 166 or section 170 and any amount paid otherwise by way of tax or interest;



(d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, him under clause (c); and

(e) the amount of refund due to the assessee in pursuance of the determination under clause (c) shall be granted to him:

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is furnished.

(2) For the purposes of processing of statements under sub-section (1), the Board may make a scheme for centralised processing of such statements to expeditiously determine the tax payable by, or the refund due to, the assessee as required under that sub-section.

169. (1) With a view to rectifying any mistake apparent from the record, the Assessing Officer may amend any intimation issued under section 168, within one year from the end of the financial year in which the intimation sought to be amended was issued.

Rectification  
of mistake.

(2) The Assessing Officer may make an amendment to any intimation under sub-section (1), either *suo motu* or on any mistake brought to his notice by the assessee.

(3) An amendment to any intimation, which has the effect of increasing the liability of the assessee or reducing a refund, shall not be made under this section unless the Assessing Officer has given notice to the assessee of his intention so to do and has given the assessee a reasonable opportunity of being heard.

(4) Where any such amendment to any intimation has the effect of enhancing the sum payable or reducing the refund already made, the Assessing Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

170. Every assessee, who fails to credit the equalisation levy or any part thereof as required under section 166 to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one per cent. of such levy for every month or part of a month by which such crediting of the tax or any part thereof is delayed.

Interest on  
delayed  
payment of  
equalisation  
levy.

171. Any assessee who—

(a) fails to deduct the whole or any part of the equalisation levy as required under section 166; or

(b) having deducted the equalisation levy, fails to pay such levy to the credit of the Central Government in accordance with the provisions of sub-section (2) of that section,

shall be liable to pay,—

Penalty for  
failure to  
deduct or pay  
equalisation  
levy.

(i) in the case referred to in clause (a), in addition to paying the levy in accordance with the provisions of sub-section (3) of that section, or interest, if any, in accordance with the provisions of section 170, a penalty equal to the amount of equalisation levy that he failed to deduct; and

(ii) in the case referred to in clause (b), in addition to paying the levy in accordance with the provisions of sub-section (2) of that section and interest in accordance with the provisions of section 170, a penalty of one thousand rupees for every day during which the failure continues, so, however, that the penalty under this clause shall not exceed the amount of equalisation levy that he failed to pay.

172. Where an assessee fails to furnish the statement within the time prescribed under sub-section (1) or sub-section (3) of section 167, he shall be liable to pay a penalty of one hundred rupees for each day during which the failure continues.

Penalty for  
failure to  
furnish  
statement.



Penalty not to be imposed in certain cases.

173. (1) Notwithstanding anything contained in section 171 or section 172, no penalty shall be imposable for any failure referred to in the said sections, if the assessee proves to the satisfaction of the Assessing Officer that there was reasonable cause for the said failure.

(2) No order imposing a penalty under this Chapter shall be made unless the assessee has been given a reasonable opportunity of being heard.

Appeal to Commissioner of Income-tax (Appeals).

174. (1) An assessee aggrieved by an order imposing penalty under this Chapter, may appeal to the Commissioner of Income-tax (Appeals) within a period of thirty days from the date of receipt of the order of the Assessing Officer.

(2) An appeal under sub-section (1) shall be in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of one thousand rupees.

(3) Where an appeal has been filed under sub-section (1), the provisions of sections 249 to 251 of the Income-tax Act shall, as far as may be, apply to such appeal.

Appeal to Appellate Tribunal.

175. (1) An assessee aggrieved by an order made by the Commissioner of Income-tax (Appeals) under section 174 may appeal to the Appellate Tribunal against such order.

(2) The Commissioner of Income-tax may, if he objects to any order passed by the Commissioner of Income-tax (Appeals) under section 174, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(3) An appeal under sub-section (1) or sub-section (2) shall be filed within sixty days from the date on which the order sought to be appealed against is received by the assessee or by the Commissioner of Income-tax, as the case may be.

(4) An appeal under sub-section (1) or sub-section (2) shall be in such form and verified in such manner as may be prescribed and, in the case of an appeal filed under sub-section (1), it shall be accompanied by a fee of one thousand rupees.

(5) Where an appeal has been filed before the Appellate Tribunal under sub-section (1) or sub-section (2), the provisions of sections 253 to 255 of the Income-tax Act shall, as far as may be, apply to such appeal.

Punishment for false statement.

176. (1) If a person makes a false statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sub-section (1) shall be deemed to be non-cognizable within the meaning of that Code.

Institution of prosecution.

177. No prosecution shall be instituted against any person for any offence under section 176 except with the previous sanction of the Chief Commissioner of Income-tax.

Application of certain provisions of Income-tax Act.

178. The provisions of sections 120, 131, 133A, 138, 156, Chapter XV and sections 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 280A, 280B, 280C, 280D, 282 and 288 to 293 of the Income-tax Act shall so far as may be, apply in relation to equalisation levy, as they apply in relation to income-tax.

Power to make rules.

179. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which and the form and the manner in which the statement shall be delivered or caused to be delivered or furnished under section 167;

(b) the form in which an appeal may be filed and the manner in which it may be verified under sections 174 and 175;



(c) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

180. (1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Power to  
remove  
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Chapter come into force.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

## CHAPTER IX

### THE INCOME DECLARATION SCHEME, 2016

181. (1) This Scheme may be called the Income Declaration Scheme, 2016.

Short title and  
commencement

(2) It shall come into force on the 1st day of June, 2016.

182. In this Scheme, unless the context otherwise requires,—

Definitions.

(a) "declarant" means a person making the declaration under sub-section (1) of section 183;

43 of 1961.

(b) "Income-tax Act" means the Income-tax Act, 1961;

(c) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

183. (1) Subject to the provisions of this Scheme, any person may make, on or after the date of commencement of this Scheme but before a date to be notified by the Central Government in the Official Gazette, a declaration in respect of any income chargeable to tax under the Income-tax Act for any assessment year prior to the assessment year beginning on the 1st day of April, 2017—

Declaration of  
undisclosed  
income.

(a) for which he has failed to furnish a return under section 139 of the Income-tax Act;

(b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Scheme;

(c) which has escaped assessment by reason of the omission or failure on the part of such person to furnish a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

(2) Where the income chargeable to tax is declared in the form of investment in any asset, the fair market value of such asset as on the date of commencement of this Scheme shall be deemed to be the undisclosed income for the purposes of sub-section (1).

(3) The fair market value of any asset shall be determined in such manner, as may be prescribed.

(4) No deduction in respect of any expenditure or allowance shall be allowed against the income in respect of which declaration under this section is made.



Charge of tax  
and surcharge.

184. (1) Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the undisclosed income declared under section 183 within the time specified therein shall be chargeable to tax at the rate of thirty per cent. of such undisclosed income.

(2) The amount of tax chargeable under sub-section (1) shall be increased by a surcharge, for the purposes of the Union, to be called the *Krishi Kalyan Cess* on tax calculated at the rate of twenty-five per cent. of such tax so as to fulfil the commitment of the Government for the welfare of the farmers.

Penalty.

185. Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the person making a declaration of undisclosed income shall, in addition to tax and surcharge under section 184, be liable to penalty at the rate of twenty-five per cent. of such tax.

Manner of  
declaration.

186. (1) A declaration under section 183 shall be made to the Principal Commissioner or the Commissioner and shall be in such form and be verified in such manner, as may be prescribed.

(2) The declaration shall be signed,—

(a) where the declarant is an individual, by the individual himself; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) where the declarant is a Hindu undivided family, by the *Karta*, and where the *Karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof;

(d) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor;

(e) where the declarant is any other association, by any member of the association or the principal officer thereof; and

(f) where the declarant is any other person, by that person or by some other person competent to act on his behalf.

(3) Any person, who has made a declaration under sub-section (1) of section 183 in respect of his income or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration, under that sub-section in respect of his income or the income of such other person, and any such other declaration, if made, shall be void.

Time for  
payment of tax.

187. (1) The tax and surcharge payable under section 184 and penalty payable under section 185 in respect of the undisclosed income, shall be paid on or before a date to be notified by the Central Government in the Official Gazette.

(2) The declarant shall file the proof of payment of tax, surcharge and penalty on or before the date notified under sub-section (1), with the Principal Commissioner or the Commissioner, as the case may be, before whom the declaration under section 183 was made.

(3) If the declarant fails to pay the tax, surcharge and penalty in respect of the declaration made under section 183 on or before the date specified under sub-section (1), the declaration filed by him shall be deemed never to have been made under this Scheme.



188. The amount of undisclosed income declared in accordance with section 183 shall not be included in the total income of the declarant for any assessment year under the Income-tax Act, if the declarant makes the payment of tax and surcharge referred to in section 184 and the penalty referred to in section 185, by the date specified under sub-section (1) of section 187.

Undisclosed income declared not to be included in total income.

27 of 1957.

189. A declarant under this Scheme shall not be entitled, in respect of undisclosed income declared or any amount of tax and surcharge paid thereon, to re-open any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act, 1957, or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.

Undisclosed income declared not to affect finality of completed assessments.

45 of 1988.

190. The provisions of the Benami Transactions (Prohibition) Act, 1988 shall not apply in respect of the declaration of undisclosed income made in the form of investment in any asset, if the asset existing in the name of a *benamidar* is transferred to the declarant, being the person who provides the consideration for such asset, or his legal representative, within the period notified by the Central Government.

Undisclosed income declared not to be treated as *benami* transaction in certain cases.

191. Any amount of tax and surcharge paid under section 184 or penalty paid under section 185 in pursuance of a declaration made under section 183 shall not be refundable.

Tax in respect of voluntarily disclosed income not refundable.

27 of 1957.

192. Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under section 183 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty, other than the penalty leviable under section 185, or for the purposes of prosecution under the Income-tax Act or the Wealth-tax Act, 1957.

Declaration not admissible in evidence against declarant.

193. Notwithstanding anything contained in this Scheme, where a declaration has been made by misrepresentation or suppression of facts, such declaration shall be void and shall be deemed never to have been made under this Scheme.

Declaration by misrepresentation of facts to be void.

194. (1) Where the undisclosed income is represented by cash (including bank deposits), bullion, investment in shares or any other assets specified in the declaration made under section 183—

Exemption from wealth-tax in respect of assets specified in declaration.

27 of 1957.

(a) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act, 1957, for the assessment year commencing on or before the 1st day of April, 2015; or

(b) which have not been shown in the return of net wealth furnished by him for the said assessment year or years; or

(c) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

27 of 1957.

then, notwithstanding anything contained in the Wealth-tax Act, 1957, or any rules made thereunder,—

(i) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (a) or clause (b) and such assets shall not be included in his net wealth for the said assessment year or years;

(ii) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years.

*Explanation.*—Where a declaration under section 183 is made by a firm, the assets referred to in sub-clause (i) or, as the case may be, the amount referred to in sub-clause (ii) shall not be taken into account in computing the net wealth



of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm.

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-sections (1) and (2) of section 187 are fulfilled by the declarant.

Applicability of certain provisions of Income-tax Act and of Chapter V of Wealth-tax Act.

Scheme not to apply to certain persons.

195. The provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 119, section 138 and section 189 of that Act or the provisions of Chapter V of the Wealth-tax Act, 1957 relating to liability in respect of assessment in special cases shall, so far as may be, apply in relation to proceedings under this Scheme as they apply in relation to proceedings under the Income-tax Act or, as the case may be, the Wealth-tax Act, 1957.

27 of 1957.

196. The provisions of this Scheme shall not apply—

(a) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

52 of 1974.

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9 of the said Act; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction;

(b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967 and the Prevention of Corruption Act, 1988;

45 of 1860.  
61 of 1985.  
37 of 1967.  
49 of 1988

(c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;

27 of 1992.

(d) in relation to any undisclosed foreign income and asset which is chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;

22 of 2015.

(e) in relation to any undisclosed income chargeable to tax under the Income-tax Act for any previous year relevant to an assessment year prior to the assessment year beginning on the 1st day of April, 2017—

(i) where a notice under section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act has been issued in respect of such assessment year and the proceeding is pending before the Assessing Officer; or

(ii) where a search has been conducted under section 132 or requisition has been made under section 132A or a survey has been carried out under section



133A of the Income-tax Act in a previous year and a notice under sub-section (2) of section 143 for the assessment year relevant to such previous year or a notice under section 153A or under section 153C of the said Act for an assessment year relevant to any previous year prior to such previous year has not been issued and the time for issuance of such notice has not expired; or

(iii) where any information has been received by the competent authority under an agreement entered into by the Central Government under section 90 or section 90A of the Income-tax Act in respect of such undisclosed asset.

197. For the removal of doubts, it is hereby declared that—

Removal of doubts.

(a) save as otherwise expressly provided in sub-section (1) of section 183, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme;

(b) where any declaration has been made under section 183 but no tax, surcharge and penalty referred to in section 184 and section 185 has been paid within the time specified under section 187, the undisclosed income shall be chargeable to tax under the Income-tax Act in the previous year in which such declaration is made;

(c) where any income has accrued, arisen or received or any asset has been acquired out of such income prior to commencement of this Scheme, and no declaration in respect of such income is made under this Scheme,—

(i) such income shall be deemed to have accrued, arisen or received, as the case may be; or

(ii) the value of the asset acquired out of such income shall be deemed to have been acquired or made;

in the year in which a notice under section 142, sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer, and the provisions of the Income-tax Act shall apply accordingly.

198. (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme shall come into force.

(2) Every order made under this section shall be laid before each House of Parliament.

199. (1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the form in which a declaration may be made under section 183 and the manner in which the same may be verified.

(3) Every rule made under this Scheme shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## CHAPTER X

## THE DIRECT TAX DISPUTE RESOLUTION SCHEME, 2016

Short title and  
commencement.**200.** (1) This Scheme may be called the Direct Tax Dispute Resolution Scheme, 2016.

(2) It shall come into force on the 1st day of June, 2016.

Definitions.

**201.** (1) In this Scheme, unless the context otherwise requires,—

(a) “declarant” means a person making a declaration under section 202;

(b) “designated authority” means an officer not below the rank of a Commissioner of Income-tax and notified by the Principal Chief Commissioner for the purposes of this Scheme;

(c) “disputed income”, in relation to an assessment year, means the whole or so much of the total income as is relatable to the disputed tax;

(d) “disputed tax” means the tax determined under the Income-tax Act, or the Wealth-tax Act, which is disputed by the assessee or the declarant, as the case may be;

(e) “disputed wealth”, in relation to an assessment year, means the whole or so much of the net wealth as is relatable to the disputed tax;

(f) “Income-tax Act” means the Income-tax Act, 1961;

43 of 1961.

(g) “specified tax” means a tax—

(i) the determination of which is in consequence of or validated by any amendment made to the Income-tax Act or the Wealth-tax Act with retrospective effect and relates to a period prior to the date on which the Act amending the Income-tax Act or the Wealth-tax Act, as the case may be, received the assent of the President; and

(ii) a dispute in respect of such tax is pending as on the 29th day of February, 2016;

(h) “tax arrear” means, the amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on the 29th day of February, 2016;

(i) “Wealth-tax Act” means the Wealth-tax Act, 1957.

27 of 1957.

(2) All other words and expressions used herein but not defined and defined in the Income-tax Act or the Wealth-tax Act, as the case may be, shall have the meanings respectively assigned to them in those Acts.

Declaration of  
tax payable.**202.** Subject to the provisions of this Scheme, where a declarant files, on or after the 1st day of June, 2016 but on or before a date to be notified by the Central Government in the Official Gazette, a declaration to the designated authority in accordance with the provisions of section 203 in respect of tax arrear, or specified tax, then, notwithstanding anything contained in the Income-tax Act or the Wealth-tax Act or any other provision of any law for the time being in force, the amount payable under this Scheme by the declarant shall be as under, namely:—

(1) in case of pending appeal related to tax arrear being—

(a) tax and interest,—

(i) in a case where the disputed tax does not exceed ten lakh rupees, the whole of the disputed tax and the interest on disputed tax till the date of assessment or reassessment, as the case may be; or

(ii) in any other case, the whole of disputed tax, twenty-five per cent. of the minimum penalty leviable and the interest on disputed tax till the date of assessment or reassessment, as the case may be;



(b) penalty, twenty-five per cent. of the minimum penalty leviable and the tax and interest payable on the total income finally determined.

(II) in case of specified tax, the amount of such tax so determined.

203. (1) A declaration under section 202 shall be made to the designated authority in such form and verified in such manner as may be prescribed.

Particulars to be furnished.

(2) Where the declaration is in respect of tax arrear, consequent to such declaration, appeal in respect of the disputed income, disputed wealth and tax arrear pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals), as the case may be, shall be deemed to have been withdrawn.

(3) Where the declaration is in respect of specified tax and the declarant has,—

(a) filed any appeal before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court or any writ petition before the High Court or the Supreme Court against any order in respect of the specified tax, he shall withdraw such appeal or writ petition with the leave of the court wherever required and furnish proof of such withdrawal along with the declaration referred to in sub-section (1);

(b) initiated any proceeding for arbitration, conciliation or mediation or has given any notice thereof under any law for the time being in force or under any agreement entered into by India with any other country or territory outside India whether for protection of investment or otherwise, he shall withdraw such notice or the claim, if any, in such proceedings prior to making the declaration and furnish proof thereof along with the declaration referred to in sub-section (1).

(4) Where the declaration is in respect of specified tax, the declarant shall, without prejudice to the provisions of sub-section (3), furnish an undertaking, in such form and verified in such manner as may be prescribed, waiving his right, whether direct or indirect, to seek or pursue any remedy or any claim in relation to the specified tax which may otherwise be available to him under any law for the time being in force, in equity, by statute or under an agreement referred to in clause (b) of sub-section (3) or otherwise.

(5) Where,—

(a) any material particular furnished in the declaration is found to be false at any stage; or

(b) the declarant violates any of the conditions referred to in this Scheme; or

(c) the declarant acts in a manner which is not in accordance with the undertaking given by him under sub-section (4),

it shall be presumed as if the declaration was never made under the Scheme and all the consequences under the Income-tax Act or the Wealth-tax Act, as the case may be, under which the proceedings against the declarant are or were pending, shall be deemed to have been revived.

(6) No appellate authority or arbitrator, conciliator or mediator shall proceed to decide any issue relating to the specified tax mentioned in the declaration and in respect of which an order had been made under sub-section (1) of section 204 by the designated authority or the payment of the sum determined under that section.

204. (1) The designated authority shall, within a period of sixty days from the date of receipt of the declaration, determine the amount payable by the declarant in accordance with the provisions of this Scheme and grant a certificate in such form as may be prescribed, to the declarant setting forth therein the particulars of the tax arrear or the specified tax, as the case may be, and the sum payable after such determination.

Time and manner of payment.



(2) The declarant shall pay the sum determined by the designated authority as per the certificate granted under sub-section (1) within thirty days of the date of receipt of the certificate and intimate the fact of such payment to the designated authority along with proof thereof and the designated authority shall thereupon pass an order stating that the declarant has paid the sum.

(3) Every order passed under sub-section (1), determining the sum payable under this Scheme, shall be conclusive as to the matters stated therein and no matter covered by such order shall be re-opened in any other proceeding under the Income-tax Act or the Wealth-tax Act or under any other law for the time being in force, or as the case may be, under any agreement, whether for protection of investment or otherwise, entered into by India with any other country or territory outside India.

Immunity from initiation of proceedings in respect of offence and imposition of penalty in certain cases.

205. The designated authority shall, subject to the conditions provided in section 204, grant—

(a) immunity from instituting any proceedings in respect of an offence under the Income-tax Act or the Wealth-tax Act, as the case may be; or

(b) immunity from imposition or waiver, as the case may be, of penalty under the Income-tax Act or the Wealth-tax Act, as the case may be, in respect of,—

(i) specified tax covered in the declaration under section 202; or

(ii) tax arrear covered in the declaration to the extent the penalty exceeds the amount of penalty referred to in clause (1) of section 202;

(c) waiver of interest under the Income-tax Act or the Wealth-tax Act, as the case may be, in respect of,—

(i) specified tax covered in the declaration under the section 202;

(ii) tax arrear covered in the declaration to the extent the interest exceeds the amount of interest referred to in sub-clause (a) of clause (1) of section 202.

No refund of amount paid under scheme.

206. Any amount paid in pursuance of a declaration made under section 202 shall not be refundable under any circumstances.

No other benefit, concession or immunity to declarant.

207. Save as otherwise expressly provided in sub-section (3) of section 204 and section 205, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant in any proceedings other than those in relation to which the declaration has been made.

Scheme not to apply in certain cases.

208. The provisions of this Scheme shall not apply—

(a) in respect of tax arrear or specified tax,—

(i) relating to an assessment year in respect of which an assessment has been made under section 153A or 153C of the Income-tax Act or assessment or reassessment for any of the assessment years, in consequence of a search initiated under section 37A or requisition made under section 37B of the Wealth-tax Act if it relates to any tax arrear;

(ii) relating to an assessment or reassessment in respect of which a survey conducted under section 133A of the Income-tax Act or section 38A of the Wealth-tax Act, has a bearing if it relates to any tax arrear;

(iii) relating to an assessment year in respect of which prosecution has been instituted on or before the date of filing of declaration under section 202;

(iv) relating to any undisclosed income from a source located outside India or undisclosed asset located outside India;

(v) relating to an assessment or reassessment made on the basis of information received under an agreement referred to in section 90 or section 90A of the Income-tax Act, if it relates to any tax arrear;



52 of 1974.

(b) to any person in respect of whom an order of detention has been made under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction;

45 of 1860.  
37 of 1967.  
61 of 1985.  
49 of 1988

(c) to any person in respect of whom prosecution for any offence punishable under the provisions of the Indian Penal Code, the Unlawful Activities (Prevention) Act, 1967, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Prevention of Corruption Act, 1988 or for the purpose of enforcement of any civil liability has been instituted on or before the filing of the declaration or such person has been convicted of any such offence punishable under any of those Acts;

27 of 1992.

(d) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

209. (1) The Central Government may, from time to time, issue such directions or orders to the authorities, as it may deem fit, for the proper administration of this Scheme:

Power of  
Central  
Government to  
issue  
directions, etc.

Provided that no direction or order shall be issued so as to require any designated authority to dispose of a particular case in a particular manner.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, if it considers necessary or expedient so to do, for the purpose of proper and efficient administration of the Scheme and collection of revenue, issue, from time to time, general or special orders in respect of any class of cases, setting forth directions or instructions as to the guidelines, principles or procedures to be followed by the authorities in the work relating to administration of the Scheme and collection of revenue and any such order may, if the Central Government is of the opinion that it is necessary in the public interest so to do, be published in the Official Gazette in such manner as may be prescribed.

210. (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Power to  
remove  
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

211. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

Power to make  
rules.



(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which a declaration may be made and the manner in which such declaration may be verified under sub-section (1) of section 203;

(b) the form of certificate which may be granted under sub-section (1) of section 204;

(c) the manner in which orders may be published under sub-section (2) of section 209;

(d) any other matter which by this scheme is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made by the Central Government under this Scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## CHAPTER XI

### THE INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016

Short title,  
application and  
commencement.

212. (1) This Scheme may be called the Indirect Tax Dispute Resolution Scheme, 2016.

(2) It shall be applicable to the declarations made up to the 31st day of December, 2016.

(3) It shall come into force on the 1st day of June, 2016.

Definitions.

213. (1) In this Scheme, unless the context otherwise requires,—

(a) “Act” means the Customs Act, 1962 or the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994, as the case may be; 52 of 1962.  
1 of 1944.  
32 of 1994.

(b) “Assistant Commissioner” means the Assistant Commissioner of Customs or the Assistant Commissioner of Central Excise or the Assistant Commissioner of Service Tax, as the case may be;

(c) “Commissioner” means the Commissioner of Customs or the Commissioner of Central Excise or the Commissioner of Service Tax, as the case may be;

(d) “declarant” means any person who makes a declaration under sub-section (1) of section 214;

(e) “designated authority” means an officer not below the rank of Assistant Commissioner who is authorised to act as Assistant Commissioner by the Commissioner for the purposes of this Scheme;

(f) “impugned order” means any order which is under challenge before the Commissioner (Appeals);

(g) “indirect tax dispute” means a dispute in respect of any of the provisions of the Act which is pending before the Commissioner (Appeals) as an appeal against the impugned order as on the 1st day of March, 2016;

(h) “prescribed” means prescribed by rules made under this Scheme;

(i) “tax” includes duty or tax levied under the Act.



(2) Words and expressions used herein and not defined but defined in the Act or the rules made thereunder shall have the meanings respectively assigned to them in the Act or the rules made thereunder.

214. (1) Subject to the provisions of this Scheme, a person may make a declaration to the designated authority on or before the 31st day of December, 2016 in such form and manner as may be prescribed.

Procedure for making declaration.

(2) The designated authority shall acknowledge the declaration in such form and manner as may be prescribed.

(3) The declarant shall pay tax due along with the interest thereon at the rate as provided in the Act and penalty equivalent to twenty-five per cent. of the penalty imposed in the impugned order, within fifteen days of the receipt of acknowledgement under sub-section (2) and intimate the designated authority within seven days of making such payment giving the details of payment made along with the proof thereof.

(4) On receipt of the proof of payment of tax, interest and penalty under sub-section (3), the designated authority shall, within fifteen days of the receipt of such proof, pass an order of discharge of dues referred to in sub-section (3) in such form as may be prescribed.

215. The provisions of this Scheme shall not apply, if—

Scheme not to apply in certain cases.

(a) the impugned order is in respect of search and seizure proceeding; or

(b) prosecution for any offence punishable under the Act has been instituted before the 1st day of June, 2016; or

(c) the impugned order is in respect of narcotic drugs or other prohibited goods; or

45 of 1860.

61 of 1985.

49 of 1988.

(d) impugned order is in respect of any offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988; or

52 of 1974.

(e) any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

216. (1) Notwithstanding anything contained in any provision of the Act, upon the passing of an order under sub-section (4) of section 214, the appeal pending before the Commissioner (Appeals) shall stand disposed of and the declarant shall get immunity from all proceedings under the Act, in respect of the indirect tax dispute for which the declaration has been made under this Scheme.

Immunity from other proceedings under Act.

(2) A declaration made under sub-section (1) of section 214 shall become conclusive upon the issuance of an order under sub-section (4) of section 214 and no matter relating to the impugned order shall be reopened thereafter in any proceedings under the Act before any authority or court.

217. (1) Any amount paid in pursuance of a declaration made under sub-section (1) of section 214 shall not be refunded.

Consequences of order made under scheme.

(2) Any order passed under sub-section (4) of section 214 shall not be deemed to be an order on merits and has no binding effect.

*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant other than the benefit, concession or immunity granted under section 216.

218. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—



(a) the form and the manner in which a declaration may be made under sub-section (1) of section 214;

(b) the form and the manner of acknowledging the declaration under sub-section (2) of section 214;

(c) the form and the manner of issuing an order of discharge under sub-section (4) of section 214;

(d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made under this Scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## CHAPTER XII

### MISCELLANEOUS

#### PART I

#### AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

Commencement  
and  
Amendment of  
Act 2 of 1934.  
Amendment of  
Preamble.

**219.** The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**220.** In the Reserve Bank of India Act, 1934 (herein referred to as the principal Act), in the Preamble, for paragraphs 2 and 3, the following paragraphs shall be substituted, namely:—

“AND WHEREAS it is essential to have a modern monetary policy framework to meet the challenge of an increasingly complex economy;

AND WHEREAS the primary objective of the monetary policy is to maintain price stability while keeping in mind the objective of growth;

AND WHEREAS the monetary policy framework in India shall be operated by the Reserve Bank of India;”

Amendment of  
section 2.

**221.** In section 2 of the principal Act,—

(i) after clause (b), the following clause shall be inserted, namely:—

“(bva) “Consumer Price Index” means the Consumer Price Index Combined published by the Government of India from time to time;”;

(ii) after clause (c), the following clauses shall be inserted, namely:—

“(ci) “inflation” means the year wise change in monthly Consumer Price Index expressed in terms of percentage;

“(cii) “inflation target” means the inflation target determined in accordance with sub-section (1) of section 45ZA;”;

(iii) after clause (cc), the following clauses shall be inserted, namely:—

“(cci) “Monetary Policy Committee” means the Committee constituted under sub-section (1) of section 45ZB;”;



(iv) after clause (cccc), the following clause shall be inserted, namely:—

'(cccci) "Policy Rate" means the rate for repo-transactions under sub-section (12AB) of section 17;'

222. After Chapter III E of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of  
new Chapter  
III F.

#### "CHAPTER III F

##### MONETARY POLICY

45Z. The provisions of this Chapter shall have effect, notwithstanding anything inconsistent therewith contained in any other provisions of this Act.

Provisions of  
this Chapter to  
override other  
provisions of  
Act.

45ZA. (1) The Central Government shall, in consultation with the Bank, determine the inflation target in terms of the Consumer Price Index, once in every five years.

Inflation target.

(2) The Central Government shall, upon such determination, notify the inflation target in the Official Gazette.

45ZB. (1) The Central Government may, by notification in the Official Gazette, constitute a Committee to be called the Monetary Policy Committee of the Bank.

Constitution of  
Monetary  
Policy  
Committee.

(2) The Monetary Policy Committee shall consist of the following Members, namely:—

(a) the Governor of the Bank—Chairperson, *ex officio*;

(b) Deputy Governor of the Bank, in charge of Monetary Policy—Member, *ex officio*;

(c) one officer of the Bank to be nominated by the Central Board—Member, *ex officio*; and

(d) three persons to be appointed by the Central Government—Members.

(3) The Monetary Policy Committee shall determine the Policy Rate required to achieve the inflation target.

(4) The decision of the Monetary Policy Committee shall be binding on the Bank.

45ZC. (1) The Members of the Monetary Policy Committee referred to in clause (d) of sub-section (2) of section 45ZB shall be appointed by the Central Government from amongst persons of ability, integrity and standing, having knowledge and experience in the field of economics or banking or finance or monetary policy:

Eligibility and  
selection of  
Members  
appointed by  
Central  
Government.

Provided that no person shall be appointed as a Member, in case such person—

(i) has completed the age of seventy years on the date of appointment as Member;

(ii) is a Member of any Board or Committee of the Bank;

(iii) is an employee of the Bank;

(iv) is a public servant as defined under section 21 of the Indian Penal Code;

(v) is a Member of Parliament or any State Legislature;

(vi) has been at any time, adjudged as an insolvent;

(vii) has been convicted of an offence which is punishable with an imprisonment for a term of one hundred and eighty days or more;



(viii) is physically or mentally incapable of discharging the duties of a Member of the Monetary Policy Committee; or

(ix) has a material conflict of interest with the Bank and is unable to resolve such conflict.

(2) The Members of the Monetary Policy Committee referred to in clause (d) of sub-section (2) of section 45ZB shall be appointed by the Central Government on the recommendations made by Search-cum-Selection Committee consisting of the following members, namely:—

(a) Cabinet Secretary—Chairperson;

(b) Governor of the Reserve Bank of India or his representative (not below the rank of Deputy Governor)—member;

(c) Secretary, Department of Economic Affairs—member;

(d) three experts in the field of economics or banking or finance or Monetary policy to be nominated by the Central Government—members.

(3) While selecting the Members of the Monetary Policy Committee, the Search-cum-Selection Committee shall follow such procedure as may be prescribed by the Central Government.

Terms and conditions of appointment of Members of Monetary Policy Committee.

45ZD. (1) The Members of the Monetary Policy Committee appointed under clause (d) of sub-section (2) of section 45ZB shall hold office for a period of four years and shall not be eligible for re-appointment.

(2) The terms and conditions of appointment of Members of the Monetary Policy Committee shall be such as may be prescribed by the Central Government and the remuneration and other allowances payable to such Members shall be such as may be specified by the regulations made by the Central Board.

(3) A Member may resign from the Monetary Policy Committee, at any time before the expiry of his tenure under sub-section (1), by giving to the Central Government, a written notice of not less than six weeks, and on the acceptance of the resignation by the Central Government, he shall cease to be a Member of the Monetary Policy Committee.

Removal of Members of Monetary Policy Committee.

45ZE. (1) The Central Government may remove from office any Member of the Monetary Policy Committee appointed under clause (d) of sub-section (2) of section 45ZB, who—

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as a Member; or

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has failed to adequately disclose any material conflict of interest at the time of his appointment; or

(e) does not attend three consecutive meetings of the Monetary Policy Committee without obtaining prior leave; or

(f) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(g) has acquired any post referred to in clauses (ii), (iii), (iv) and clause (v) of the proviso to sub-section (1) of section 45ZC; or

(h) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.



(2) No Member appointed under clause (d) of sub-section (2) of section 45ZB shall be removed under clause (d) or clause (e) or clause (f) or clause (g) or clause (h) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

45ZF. No act or proceeding of the Monetary Policy Committee shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of the Monetary Policy Committee; or

(b) any defect in the appointment of a person acting as a Member of the Monetary Policy Committee; or

(c) any irregularity in the procedure of the Monetary Policy Committee not affecting the merits of the case.

45ZG. (1) The Bank shall appoint a Secretary to the Monetary Policy Committee to provide secretariat support to the said Committee.

(2) The Secretary shall perform such functions and in such manner as may be specified by the regulations made by the Central Board.

45ZH. (1) The Bank shall provide all information to the Members of the Monetary Policy Committee that may be relevant to achieve the inflation target.

(2) In addition to information provided by the Bank under sub-section (1), any Member of the Monetary Policy Committee may, at any time, request the Bank for additional information, including any data, models or analysis.

(3) The Bank shall provide the information, as referred to in sub-section (2), to the Member of the Monetary Policy Committee, within reasonable time, unless—

(a) the information pertains to an entity or person and is not publicly available; or

(b) the information allows an entity or person to be identified and the information is not publicly available.

(4) Any information provided by the Bank to a Member of the Monetary Policy Committee shall be provided to all the Members of the Monetary Policy Committee.

45ZI. (1) The Bank shall organise at least four meetings of the Monetary Policy Committee in a year.

(2) The meeting schedule of the Monetary Policy Committee for a year shall be published by the Bank at least one week before the first meeting in that year.

(3) The meeting schedule may be changed only—

(a) by way of a decision taken at a prior meeting of the Monetary Policy Committee; or

(b) if, in the opinion of the Governor, an additional meeting is required or a meeting is required to be rescheduled due to administrative exigencies.

(4) Any change in meeting schedule shall be published by the Bank as soon as practicable.

(5) The quorum for a meeting of the Monetary Policy Committee shall be four Members, at least one of whom shall be the Governor and in his absence, the Deputy Governor who is the Member of the Monetary Policy Committee.

(6) The meetings of the Monetary Policy Committee shall be presided over by the Governor, and in his absence by the Deputy Governor who is a Member of the Monetary Policy Committee.

Vacancies, etc., not to invalidate proceedings of Monetary Policy Committee.

Secretary to Monetary Policy Committee

Information for Monetary Policy Committee Members.

Meetings of Monetary Policy Committee.



(7) Each Member of the Monetary Policy Committee shall have one vote.

(8) All questions which come up before any meeting of the Monetary Policy Committee shall be decided by a majority of votes by the Members present and voting, and in the event of an equality of votes, the Governor shall have a second or casting vote.

(9) The Central Government may, if it considers necessary, convey its views in writing to the Monetary Policy Committee from time to time.

(10) The vote of each Member of the Monetary Policy Committee for a proposed resolution shall be recorded against such Member.

(11) Each Member of the Monetary Policy Committee shall write a statement specifying the reasons for voting in favour of, or against the proposed resolution.

(12) The procedure, conduct, code of confidentiality and any other incidental matter for the functioning of the Monetary Policy Committee shall be such as may be specified by the regulations made by the Central Board.

(13) The proceeding of the Monetary Policy Committee shall be confidential.

45ZJ. (1) The Bank shall publish a document explaining the steps to be taken by it to implement the decisions of the Monetary Policy Committee, including any changes thereto.

(2) The particulars to be included in such document and the frequency of publications of such document shall be such as may be specified by the regulations made by the Central Board.

45ZK. The Bank shall publish, after the conclusion of every meeting of the Monetary Policy Committee, the resolution adopted by the said Committee;

45ZL. The Bank shall publish, on the fourteenth day after every meeting of the Monetary Policy Committee, the minutes of the proceedings of the meeting which shall include the following, namely:—

(a) the resolution adopted at the meeting of the Monetary Policy Committee;

(b) the vote of each member of the Monetary Policy Committee, ascribed to such member, on resolutions adopted in the said meeting; and

(c) the statement of each member of the Monetary Policy Committee under sub-section (11) of section 45ZL on the resolutions adopted in the said meeting.

45ZM. (1) The Bank shall, once in every six months, publish a document to be called the Monetary Policy Report, explaining—

(a) the sources of inflation; and

(b) the forecasts of inflation for the period between six to eighteen months from the date of publication of the document.

(2) The form and contents of the Monetary Policy Report shall be such as may be specified by the regulations made by the Central Board.

45ZN. Where the Bank fails to meet the inflation target, it shall set out in a report to the Central Government—

(a) the reasons for failure to achieve the inflation target;

(b) remedial actions proposed to be taken by the Bank; and

(c) an estimate of the time-period within which the inflation target shall be achieved pursuant to timely implementation of proposed remedial actions.

Steps to be taken to implement decision of Monetary Policy Committee.

Publication of decisions.

Publication of proceedings of meeting of Monetary Policy Committee.

Monetary Policy Report.

Failure to maintain inflation target.



*Explanation.*—For the purposes of this section, the factors that constitute failure shall be such as may be notified by the Central Government in the Official Gazette, within three months from the date of the commencement of Part I of Chapter XII of the Finance Act, 2016.

45ZO. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Chapter.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the procedure of functioning of the Search-cum-Selection Committee under sub-section (3) of section 45ZC;

(b) the terms and conditions of appointment, (other than the remuneration and other allowances), of Members of the Monetary Policy Committee under sub-section (2) of section 45ZD; and

(c) any other matter which is to be, or may be, prescribed by the Central Government by rules.”

223. In section 58 of the principal Act, in sub-section (2), after clause (q), the following clauses shall be inserted, namely:—

Amendment of section 58.

“(qa) the remuneration and other allowances payable to Members of the Monetary Policy Committee under sub-section (2) of section 45ZD;

(qb) the functions of the Secretary under sub-section (2) of section 45ZG;

(qc) the procedure, manner of conducting of meetings and related matters of the Monetary Policy Committee under sub-section (12) of section 45ZI;

(qd) the particulars and the frequency of publication of document under sub-section (2) of section 45ZJ;

(qe) the form and contents of the Monetary Policy Report to be published under sub-section (2) of section 45ZM;”

## PART II

### AMENDMENT TO THE CENTRAL SALES TAX ACT, 1956

224. In the Central Sales Tax Act, 1956, in section 3, after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

Amendment of Act 74 of 1956.

“*Explanation 3.*—Where the gas sold or purchased and transported through a common carrier pipeline or any other common transport or distribution system becomes co-mingled and fungible with other gas in the pipeline or system and such gas is introduced into the pipeline or system in one State and is taken out from the pipeline in another State, such sale or purchase of gas shall be deemed to be a movement of goods from one State to another.”

## PART III

### AMENDMENT TO THE OIL INDUSTRY (DEVELOPMENT) ACT, 1974

225. In the Oil Industry (Development) Act, 1974, in the Schedule, against Sl.No.1 relating to crude oil, for the entry in column 3, the entry “twenty per cent. *ad valorem*” shall be substituted.

Amendment of Schedule of Act 47 of 1974.

## PART IV

### AMENDMENT TO THE SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS

#### (FORFEITURE OF PROPERTY) ACT, 1976

226. In the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 with effect from the 1st day of June, 2016,—

Amendment of Act 13 of 1976.



- (a) section 2A shall be omitted;
- (b) in section 3, in sub-section (1), in clause (a), the words "for Forfeited Property" shall be omitted;

(c) in section 12,—

(i) in sub-section (1),—

(A) the words "to be called the Appellate Tribunal for Forfeited Property" shall be omitted;

(B) for the words "hearing appeals against the orders made under section 7, sub-section (1) of section 9 or section 10", the following shall be substituted, namely:—

"hearing appeals against the orders made—

(a) under section 7, sub-section (1) of section 9 or section 10;

(b) under section 68F, section 68-I, sub-section (1) of section 68K or section 68L of the Narcotic Drugs and Psychotropic Substances Act, 1985;

61 of 1985.

(c) by the Adjudicating Authority or any other authority under the Prevention of Money-laundering Act, 2002.";

15 of 2003.

(ii) in sub-section (2), the words "or is qualified to be" shall be omitted;

(iii) in sub-section (6A), for the words "Bench of two members", the words "Bench with one or two members" shall be substituted;

(iv) after sub-section (6A), the following sub-sections shall be inserted, namely:—

"(6B) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the senior-most member, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(6C) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the senior-most member shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties."

#### PART V

#### AMENDMENT TO THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

Amendment of  
Act 61 of  
1985.

227. In the Narcotic Drugs and Psychotropic Substances Act, 1985 with effect from the 1st day of June, 2016,—

(a) in section 68B, in clause (a), for the words "for Forfeited Property constituted under", the words "referred to in" shall be substituted;

(b) for section 68N, the following section shall be substituted, namely:—

"68N. The Appellate Tribunal constituted under sub-section (1) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 shall be the Appellate Tribunal for hearing appeals against the orders made under section 68F, section 68-I, sub-section (1) of section 68K or section 68L.";

13 of 1976.



(c) in section 76, in sub-section (2), clause (db) shall be omitted.

## PART VI

## AMENDMENTS TO THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999

228. The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Commencement of this Part.

229. In the Foreign Exchange Management Act, 1999, after section 14, the following section shall be inserted, namely:—

Amendment of Act 42 of 1999.

“14A. (1) Save as otherwise provided in this Act, the Adjudicating Authority may, by order in writing, authorise an officer of Enforcement not below the rank of Assistant Director to recover any arrears of penalty from any person who fails to make full payment of penalty imposed on him under section 13 within the period of ninety days from the date on which the notice for payment of such penalty is served on him.

Power to recover arrears of penalty.

(2) The officer referred to in sub-section (1) shall exercise all the like powers which are conferred on the income-tax authority in relation to recovery of tax under the Income-tax Act, 1961 and the procedure laid down under the Second Schedule to the said Act shall *mutatis mutandis* apply in relation to recovery of arrears of penalty under this Act.”

43 of 1961.

## PART VII

## AMENDMENT TO THE CENTRAL ROAD FUND ACT, 2000

230. In section 10 of the Central Road Fund Act, 2000, with effect from the 1st day of June, 2016,—

Amendment of Act 54 of 2000.

(A) in sub-section (1), for clause (viii), the following clause shall be substituted, namely:—

“(viii) allocation of—

(a) thirty-three and one-half per cent. of the cess on high speed diesel and petrol for the development of rural roads;

(b) forty-one and one-half per cent. of the cess on high speed diesel and petrol for the development and maintenance of national highways;

(c) fourteen per cent. of the cess on high speed diesel and petrol for railways safety works, including the construction of road either under or over the railways by means of a bridge and erection of safety works at unmanned rail-road crossings, new lines, conversion of existing standard lines into gauge lines and electrification of rail lines;

Provided that no repair, maintenance or renovation work shall be carried out from the allocation of cess under this sub-clause;

(d) ten per cent. of the cess on high speed diesel and petrol on development and maintenance of State roads of inter-State and economic importance to be so approved by the Central Government; and

(f) one per cent. of the cess on high speed diesel and petrol on development and maintenance of road in border areas.”;

(B) sub-section (2) shall be omitted.

## PART VIII

## AMENDMENT TO THE FINANCE ACT, 2001

231. In the Finance Act, 2001, the Seventh Schedule shall be amended,—

Amendment of Act 14 of 2001.

(i) in the manner specified in the Twelfth Schedule;



(ii) in the manner specified in the Thirteenth Schedule, with effect from the 1st day of January, 2017.

## PART IX

## AMENDMENT TO THE PREVENTION OF MONEY-LAUNDERING ACT, 2002

Amendment of  
Act 15 of  
2003.

232. In the Prevention of Money-laundering Act, 2002 with effect from the 1st day of June, 2016,—

(a) in section 2, in sub-section (1), in clause (b), for the words “established under”, the words “referred to in” shall be substituted;

(b) for section 25, the following section shall be substituted, namely:—

Appellate  
Tribunal.

“25. The Appellate Tribunal constituted under sub-section (1) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 shall be the Appellate Tribunal for hearing appeals against the orders of the Adjudicating Authority and the other authorities under this Act.”; 13 of 1976.

(c) sections 27, 28, 30, 31, 32, 33 and 34 shall be omitted;

(d) in sections 36, 37, 38 and 40, for the word “Chairperson” wherever it occurs, the word “Chairman” shall be substituted;

(e) in section 73, in sub-section (2), clauses (s) and (t) shall be omitted.

## PART X

## AMENDMENT TO THE FINANCE (NO. 2) ACT, 2004

Amendment of  
Act 23 of  
2004.

233. In the Finance (No.2) Act, 2004 with effect from the 1st day of June, 2016,—

(a) in section 98, in the Table, against serial number 4, in item (a), under column (3), for the entry “0.017 per cent.”, the entry “0.05 per cent.” shall be substituted;

(b) for section 113A, the following section shall be substituted, namely:—

Chapter VII  
not to apply in  
certain cases.

“113A. Notwithstanding anything contained in this Chapter, the provisions of this Chapter shall not apply to taxable securities transactions entered into by,—

(a) any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10 of the Income-tax Act, 1961; or 43 of 1961.

(b) any person on a recognised stock exchange located in an International Financial Services Centre where the consideration for such transaction is paid or payable in foreign currency.

*Explanation.*—For the purposes of this section, “International Financial Services Centre” shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005.” 28 of 2005.

## PART XI

## AMENDMENT TO THE FINANCE ACT, 2005

Amendment of  
Act 18 of  
2005.

234. In the Finance Act, 2005, the Seventh Schedule shall be amended in the manner specified in the Fourteenth Schedule.

## PART XII

## AMENDMENT TO THE FINANCE ACT, 2010

Amendment of  
Act 14 of  
2010.

235. In the Finance Act, 2010,—

(i) in Chapter VII or in any other law for the time being in force, for the words “Clean Energy Cess”, wherever they occur, the words “Clean Environment Cess” shall be substituted;



(ii) in the Tenth Schedule, for the entry in column (4) occurring against all the headings, the entry "Rs.400 per tonne" shall be substituted.

## PART XIII

## AMENDMENT TO THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

236. In the Foreign Contribution (Regulation) Act, 2010, in section 2, in sub-section (1), in clause (j), in sub-clause (vi), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 26th September, 2010, namely:—

Amendment of  
section 2 of  
Act 42 of  
2010.

42 of 1999.

"Provided that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999, or the rules or regulations made thereunder, then, notwithstanding the nominal value of share capital of a company being more than one-half of such value at the time of making the contribution, such company shall not be a foreign source;"

## PART XIV

## AMENDMENT TO THE FINANCE ACT, 2013

237. In the Finance Act, 2013, after section 132, the following section shall be inserted, with effect from the 1st day of June, 2016, namely:—

Amendment of  
Act 17 of 2013.

'132A. Notwithstanding anything contained in this Chapter, the provisions of this Chapter shall not apply to taxable commodities transactions entered into by any person on a recognised association located in an International Financial Services Centre, where the consideration for such transaction is paid or payable in foreign currency.

Chapter VII  
not to apply in  
certain cases.

28 of 2005.

*Explanation.*—For the purposes of this section, "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones, Act, 2005."

## PART XV

## AMENDMENT TO THE FINANCE ACT, 2015

238. In the Finance Act, 2015,—

Amendment of  
Act 20 of  
2015.

(a) in section 4, clause (ii) shall be omitted with effect from the 1st day of April, 2016;

(b) with effect from the 1st day of June, 2016,—

(i) in section 122, in sub-section (2), for the words "Any credit balance", the words "Notwithstanding anything contrary contained in any other law for the time being in force, any credit balance" shall be substituted;

(ii) in section 124, sub-section (5) shall be omitted;

(iii) in section 128, in sub-section (2), clause (c) shall be omitted.

## PART XVI

## REPEAL AND AMENDMENT OF CERTAIN ENACTMENTS

239. The enactments specified in the Fifteenth Schedule are hereby repealed or amended to the extent mentioned in the fourth column thereof.

Repeal and  
amendment of  
certain  
enactments.

240. (1) The repeal by this Act of the enactments specified in the Fifteenth Schedule or amendments therein shall not—

Savings.



(a) affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

(b) affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

(c) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

(d) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

(2) The mention of particular matters in sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals. 10 of 1897.

Collection and  
payment of  
arrears of  
duties.

241. Notwithstanding the repeal or amendment of the enactments specified in the Fifteenth Schedule, the proceeds of duties levied under the said enactments immediately preceding the date on which the Finance Bill, 2016 receives the assent of the President,—

(i) if collected by the collecting agencies but not paid into the Reserve Bank of India; or

(ii) if not collected by the collecting agencies,

shall be paid or as the case may be, collected and paid into the Reserve Bank of India for being credited to the Consolidated Fund of India.



## THE FIRST SCHEDULE

(See section 2)

## PART I

## INCOME-TAX

## Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

## Rates of income-tax

- |   |   |
|---|---|
| (1) where the total income does not exceed Rs. 2,50,000                           | Nil;  |
| (2) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000  | 10 per cent. of the amount by which the total income exceeds Rs. 2,50,000;                    |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 25,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;    |
| (4) where the total income exceeds Rs. 10,00,000                                  | Rs. 1,25,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(II) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year.—

## Rates of income-tax

- |   |   |
|---|---|
| (1) where the total income does not exceed Rs. 3,00,000                           | Nil;  |
| (2) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000  | 10 per cent. of the amount by which the total income exceeds Rs. 3,00,000;                    |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 20,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;    |
| (4) where the total income exceeds Rs. 10,00,000                                  | Rs. 1,20,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

## Rates of income-tax

- |   |   |
|---|---|
| (1) where the total income does not exceed Rs. 5,00,000                           | Nil;  |
| (2) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;                    |
| (3) where the total income exceeds Rs. 10,00,000                                  | Rs. 1,00,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

## Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.



*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

- |   |   |
|---|---|
| (1) where the total income does not exceed Rs.10,000                        | 10 per cent. of the total income;   |
| (2) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000 | Rs.1,000 plus 20 per cent. of the amount by which the total income exceeds Rs.10,000;   |
| (3) where the total income exceeds Rs. 20,000                               | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

- |  |                                   |
|--|-----------------------------------|
| I. In the case of a domestic company                         | 30 per cent. of the total income. |
| II. In the case of a company other than a domestic company,— |                                   |
| (i) on so much of the total income as consists of,—          |                                   |



(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

40 per cent.

#### *Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, be increased by a surcharge for the purposes of the Union calculated,—

(i) in the case of every domestic company,—

(a) having a total income exceeding one crore rupees, but not exceeding ten crore rupees, at the rate of seven per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of twelve per cent. of such income-tax;

(ii) in the case of every company other than a domestic company,—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

#### PART II

#### RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D, 194LBA, 194LBB, 194LBC and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	<i>Rate of income-tax</i>
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on income by way of insurance commission	5 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;	



	<i>Rate of income-tax</i>
(C) any security of the Central or State Government;	
(vi) on any other income	10 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E or sub-clause (iii) of clause (c) of sub-section (1) of section 112	10 per cent.;
(C) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(D) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;
(F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;
(G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;
(H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;
(I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(J) on income by way of winnings from horse races	30 per cent.;
(K) on the whole of the other income	30 per cent.;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;
(B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India.	10 per cent.;
(C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the	10 per cent.;



	Rate of income-tax
agreement is in accordance with that policy	
(D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;
(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(F) on income by way of winnings from horse races	30 per cent.;
(G) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(H) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of section 112	10 per cent.;
(I) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(J) on the whole of the other income	30 per cent.
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on any other income	10 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(ii) on income by way of winnings from horse races	30 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976	10 per cent.;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy,	



*Rate of income-tax*

for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976	10 per cent.;
(vii) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(viii) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of section 112	10 per cent.;
(ix) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(x) on any other income	40 per cent.

*Explanation.*— For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

*Surcharge on income-tax*

The amount of income-tax deducted in accordance with the provisions of—

(i) item 1 of this Part, shall be increased by a surcharge, for purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, being a non-resident, calculated at the rate of fifteen per cent. of such tax; and

(b) in the case of every co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent.,

where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(ii) item 2 of this Part shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated,—

(a) at the rate of two per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees; and

(b) at the rate of five per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

## PART III

*RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”*

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” [not being “advance tax” in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such “advance tax” in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BA or section 115BB or section 115BBA or section 115BBC or section 115BBD or section 115BBDA or section 115BBE or section 115BBF or section 115E or section 115JB or section 115JC] shall be charged, deducted or computed at the following rate or rates:—

*Paragraph A*

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—



*Rates of income-tax*

- |     |   |   |
|-----|---|---|
| (1) | where the total income does not exceed Rs. 2,50,000                           | Nil;  |
| (2) | where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000  | 10 per cent. of the amount by which the total income exceeds Rs. 2,50,000;                    |
| (3) | where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 25,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;    |
| (4) | where the total income exceeds Rs. 10,00,000                                  | Rs. 1,25,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(II) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

*Rates of income-tax*

- |     |   |   |
|-----|---|---|
| (1) | where the total income does not exceed Rs. 3,00,000                           | Nil;  |
| (2) | where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000  | 10 per cent. of the amount by which the total income exceeds Rs. 3,00,000;                    |
| (3) | where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 20,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;    |
| (4) | where the total income exceeds Rs. 10,00,000                                  | Rs. 1,20,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

*Rates of income-tax*

- |     |   |   |
|-----|---|---|
| (1) | where the total income does not exceed Rs. 5,00,000                           | Nil;  |
| (2) | where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;                    |
| (3) | where the total income exceeds Rs. 10,00,000                                  | Rs. 1,00,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of fifteen per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

- |     |  |   |
|-----|--|---|
| (1) | where the total income does not exceed Rs. 10,000                        | 10 per cent. of the total income;   |
| (2) | where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) | where the total income exceeds Rs. 20,000                                | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees



by more than the amount of income that exceeds one crore rupees.

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income

30 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income

30 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company,—

(i) where its total turnover or the gross receipt in the previous year 2014-15 does not exceed five crore rupees;

29 per cent. of the total income;

(ii) other than that referred to in item (i)

30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976.

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

40 per cent.



*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, be increased by a surcharge for the purposes of the Union calculated,—

(i) in the case of every domestic company,—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of seven per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of twelve per cent. of such income-tax;

(ii) in the case of every company other than a domestic company,—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

## PART IV

[See section 2(13)(c)]

## RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

*Rule 1.*—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

*Rule 2.*—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

*Rule 3.*—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

*Rule 4.*—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

*Rule 5.*—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

*Rule 6.*—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the



agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

*Rule 7.*—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

*Rule 8.*—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2016, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014 or the 1st day of April, 2015,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2015,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2015,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2016.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2017, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,



(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2015 or the 1st day of April, 2016,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2015, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2016,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2016,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2017.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in the First Schedule to the Finance Act, 2008 (18 of 2008) or of the First Schedule to the Finance (No. 2) Act, 2009 (33 of 2009) or of the First Schedule to the Finance Act, 2010 (14 of 2010) or of the First Schedule to the Finance Act, 2011 (8 of 2011) or of the First Schedule to the Finance Act, 2012 (23 of 2012) or of the First Schedule to the Finance Act, 2013 (17 of 2013) or of the First Schedule to the Finance (No. 2) Act, 2014 (25 of 2014) or of the First Schedule to the Finance Act, 2015 (20 of 2015) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

*Rule 9.*—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

*Rule 10.*—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

*Rule 11.*—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.



## THE SECOND SCHEDULE

(See section 139)

Sl. No.	Notification number and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G.S.R. 367 (E), dated the 27 <sup>th</sup> April, 2000 [51/2000-Customs, dated the 27 <sup>th</sup> April, 2000]	In the said notification, in the opening paragraph, for the words, figures and letter "under sections 3, 8 and 9A", the words, figures and letters "under sections 3, 8B and 9A" shall be substituted.	27 <sup>th</sup> April, 2000.
2.	G.S.R. 292(E), dated the 19 <sup>th</sup> April, 2002 [43/2002-Customs, dated the 19 <sup>th</sup> April, 2002]	In the said notification, in the opening paragraph, for the words, figures and letter "under sections 3, 8 and 9A", the words, figures and letters "under sections 3, 8B and 9A" shall be substituted.	19 <sup>th</sup> April, 2002.
3.	G.S.R. 281 (E), dated the 1 <sup>st</sup> April, 2003 [57/2003-Customs, dated the 1 <sup>st</sup> April, 2003]	In the said notification, in the Table, in column (3), against S. No.4, for the words, figures and letter "under sections 3, 8 and 9A", the words, figures and letters "under sections 3, 8B and 9A" shall be substituted.	1 <sup>st</sup> April, 2003.
4.	G.S.R. 604 (E), dated the 10 <sup>th</sup> September, 2004 [91/2004-Customs, dated the 10 <sup>th</sup> September, 2004]	In the said notification, in paragraph 2, for the words, figures and letter "under sections 3, 8 and 9A", the words, figures and letters "under sections 3, 8B and 9A" shall be substituted.	10 <sup>th</sup> September, 2004.
5.	G.S.R. 606(E), dated the 10 <sup>th</sup> September, 2004 [93/2004-Customs, dated the 10 <sup>th</sup> September, 2004]	In the said notification, in the opening paragraph, for the words, figures and letter "under sections 3, 8 and 9A", the words, figures and letters "under sections 3, 8B and 9A" shall be substituted.	10 <sup>th</sup> September, 2004.
6.	G.S.R. 260 (E), dated the 1 <sup>st</sup> May, 2006 [40/2006-Customs, dated the 1 <sup>st</sup> May, 2006]	In the said notification, in the opening paragraph, for the words, figures and letter "under sections 3, 8 and 9A", the words, figures and letters "under sections 3, 8B and 9A" shall be substituted.	1 <sup>st</sup> May, 2006.



## THE THIRD SCHEDULE

[See section 141(i)]

In the First Schedule to the Customs Tariff Act,—

(1) in Chapter 27, in the Supplementary Note,—

(a) in clause (e), for the figures “1460:2000”, the figures “1460:2005” shall be substituted;

(b) in clause (f), for the figures “1460”, the figures “15770:2008” shall be substituted;

(2) in Chapter 40,—

(a) for the entry in column (4) occurring against tariff item 4016 95 90, the entry “20%” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 4016 99 90, the entry “20%” shall be substituted;

(3) in Chapter 58, in heading 5801,—

(a) in sub-heading 5801 37, the entry in column (2) “--- Warp pile fabrics, ‘epingle’ (uncut):” shall be omitted;

(b) for tariff items 5801 37 11 and 5801 37 19 and the entries relating thereto, the following shall be substituted namely:—

(1)	(2)	(3)	(4)	(5)
“5801 37 10	--- Warp pile fabrics, uncut	m <sup>2</sup>	10% or Rs.140 per sq. metre whichever is higher	—”;

(4) in Chapter 71,—

(a) in heading 7104, for the tariff item 7104 90 00 and the entries relating thereto, the following shall be substituted, namely:—

(1)	(2)	(3)	(4)	(5)
“7104 90	- Other:			
7104 90 10	--- Laboratory-created or laboratory grown or manmade or cultured or synthetic diamonds	c/k	10%	-
7104 90 90	--- Other	kg.	10%	—”;

(b) for the entry in column (4) occurring against all the tariff items of heading 7117, the entry “15%” shall be substituted;

(5) in Chapter 76, for the entry in column (4) occurring against all tariff items of headings 7601, 7603, 7604, 7605, 7606 and 7607, the entry “7.5%” shall be substituted;

(6) in Chapter 79, for the entry in column (4) occurring against all tariff items of sub-heading 7901 20, the entry “7.5%” shall be substituted;

(7) in Chapter 84,—

(i) for the entry in column (4) occurring against all tariff items of heading 8402, the entry “10%” shall be substituted;

(ii) for the entry in column (4) occurring against all tariff items of heading 8404, the entry “10%” shall be substituted;

(iii) for the entry in column (4) occurring against all tariff items (except tariff item 8406 10 00) of heading 8406, the entry “10%” shall be substituted;

(iv) for the entry in column (4) occurring against all tariff items of heading 8410, the entry “10%” shall be substituted;

(v) for the entry in column (4) occurring against all tariff items (except tariff items 8411 11 00, 8411 12 00, 8411 21 00, 8411 22 00 and 8411 91 00) of heading 8411, the entry “10%” shall be substituted;

(vi) for the entry in column (4) occurring against tariff items 8412 80 19, 8412 80 20, 8412 80 30 and 8412 80 90 of heading 8412, the entry “10%” shall be substituted;

(vii) for the entry in column (4) occurring against tariff item 8419 19 20, the entry “10%” shall be substituted;

(8) In Chapter 85,—

(i) for the entry in column (4) occurring against all tariff items of heading 8501, the entry “10%” shall be substituted;

(ii) for the entry in column (4) occurring against all tariff items (except tariff items 8502 11 00, 8502 20 10 and 8502 40 00) of heading 8502, the entry “10%” shall be substituted;



(iii) for the entry in column (4) occurring against all tariff items (except tariff item 8503 00 90) of heading 8503, the entry "10%" shall be substituted;

(iv) for the entry in column (4) occurring against all tariff items (except tariff items 8504 31 00, 8504 32 00, 8504 40 10, 8504 40 30, 8504 50 10 and 8504 50 90) of heading 8504, the entry "10%" shall be substituted;

(v) in heading 8525, the tariff item 8525 50 50 and the entries relating thereto shall be omitted;

(vi) for the entry in column (4) occurring against all tariff items (except tariff items under sub-headings 8535 40 and 8535 90) of heading 8535, the entry "10%" shall be substituted;

(vii) for the entry in column (4) occurring against all tariff items (except tariff items 8536 10 10, 8536 41 00, 8536 61 10, 8536 61 90, 8536 69 10, 8536 69 90 and 8536 70 00) of heading 8536, the entry "10%" shall be substituted;

(viii) for the entry in column (4) occurring against all tariff items of heading 8537, the entry "10%" shall be substituted;

(ix) for the entry in column (4) occurring against all tariff items (except tariff items 8544 42 91, 8544 42 92, 8544 42 93, 8544 42 99, 8544 70 10 and 8544 70 90) of heading 8544, the entry "10%" shall be substituted;

(x) for the entry in column (4) occurring against all tariff items of heading 8546, the entry "10%" shall be substituted; and

(xi) for the entry in column (4) occurring against all tariff items of heading 8547, the entry "10%" shall be substituted;

(9) in Chapter 90, for the entry in column (4) occurring against tariff items 9028 90 10, 9030 31 00, 9030 90 10, 9032 89 10 and 9032 89 90, the entry "10%" shall be substituted;

(10) in Chapter 95,—

(a) for the entry in column (4) occurring against tariff item 9503 00 90, the entry "20%" shall be substituted;

(b) for the entry in column (4) occurring against tariff item 9505 10 00, the entry "20%" shall be substituted;

(c) for the entry in column (4) occurring against tariff item 9505 90 90, the entry "20%" shall be substituted.



## THE FOURTH SCHEDULE

[See section 141 (ii)]

Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
In the First Schedule to the Customs Tariff Act, 1975,—				
(1) in Chapter 3,—				
(i) in Note 1, in clause (c), for the words “livers and roes”, the words “livers, roes and milt” shall be substituted;				
(ii) in heading 0301, for tariff items 0301 93 00 and the entries relating thereto, the following shall be substituted, namely:—				
“0301 93 00	-- Carp ( <i>Cyprinus</i> spp., <i>Carassius</i> spp., <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys</i> spp., <i>Cirrhinus</i> spp., <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo</i> spp., <i>Osteochilus hasselti</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama</i> spp.)	kg.	30%	-”;
(iii) for heading 0302, tariff items 0302 11 00 to 0302 85 00, sub-heading 0302 89, tariff items 0302 89 10 to 0302 90 00 and the entries relating thereto, the following shall be substituted, namely:—				
“0302	<b>FISH, FRESH OR CHILLED, EXCLUDING FISH FILLETS AND OTHER FISH MEAT OF HEADING 0304</b>			
-	<i>Salmonidae</i> , excluding edible fish offal of sub-headings 0302 91 to 0302 99:			
0302 11 00	-- Trout ( <i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarkii</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i> , <i>Oncorhynchus apache</i> and <i>Oncorhynchus chrysogaster</i> )	kg.	30%	-
0302 13 00	-- Pacific salmon ( <i>Oncorhynchus nerka</i> , <i>Oncorhynchus gorbuscha</i> , <i>Oncorhynchus keta</i> , <i>Oncorhynchus tshawytscha</i> , <i>Oncorhynchus kisutch</i> , <i>Oncorhynchus masou</i> and <i>Oncorhynchus rhodurus</i> )	kg.	30%	-
0302 14 00	-- Atlantic salmon ( <i>Salmo salar</i> ) and Danube salmon ( <i>Hucho hucho</i> )	kg.	30%	-
0302 19 00	-- Other	kg.	30%	-
-	<i>Flat fish</i> ( <i>Pleuronectidae</i> , <i>Bothidae</i> , <i>Cynoglossidae</i> , <i>Soleidae</i> , <i>Scophthalmidae</i> and <i>Citharidae</i> ), excluding edible fish offal of sub-headings 0302 91 to 0301 99:			
0302 21 00	-- Halibut ( <i>Rheinhardtius hippoglossidae</i> , <i>Hippoglossus hippoglossus</i> , <i>Hippoglossus stenolepis</i> )	kg.	30%	-
0302 22 00	-- Plaice ( <i>Pleuronectes platessa</i> )	kg.	30%	-
0302 23 00	-- Sole ( <i>Solea</i> spp.)	kg.	30%	-
0302 24 00	-- Turbots ( <i>Psetta maxima</i> )	kg.	30%	-
0302 29 00	-- Other	kg.	30%	-
-	<i>Tunas</i> (of the genus <i>Thunnus</i> ), skipjack or stripe-bellied bonito ( <i>Euthynnus</i> ( <i>Katsuwonus</i> ) <i>pelamis</i> ), excluding edible fish offal of sub-headings 0302 91 to 0301 99:			
0302 31 00	-- Albacore or long finned tunas ( <i>Thunnus alalunga</i> )	kg.	30%	-
0302 32 00	-- Yellowfin tunas ( <i>Thunnus albacares</i> )	kg.	30%	-
0302 33 00	-- Skipjack or stripe-bellied bonito	kg.	30%	-
0302 34 00	-- Bigeye tunas ( <i>Thunnus obesus</i> )	kg.	30%	-
0302 35 00	-- Atlantic and Pacific bluefin tunas ( <i>Thunnus thynnus</i> , <i>Thunnus orientalis</i> )	kg.	30%	-
0302 36 00	-- Southern bluefin tunas ( <i>Thunnus maccoyii</i> )	kg.	30%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
1302 39 00	--	Other	kg.	30%	-
	-	<i>Herrings (Clupea harengus, Clupea pallasii), anchovies (Engraulis spp.), sardines (Sardina pilchardus, Sardinops spp.), sardinella (Sardinella spp.), brisling or sprats (Sprattus sprattus), mackerel (Scomber scombrus, Scomber australasicus, Scomber japonicus), Indian mackerels (Rastrelliger spp.), seerfishes (Scomberomorus spp.), jack and horse mackerel (Trachurus spp.), jacks, crevalles (Caranx spp.), cobia (Rachycentron canadum), silver pomfrets (Pampus spp.), Pacific saury (Cololabis saira), scads (Decapterus spp.), capelin (Mallotus villosus), Sword fish (Xiphias gladius), Kawakawa (Euthynnus affinis), bonitos (Sarda spp.), marlins, sailfishes, spearfish (Istiophoridae), excluding edible fish offal of sub-headings 0302 91 to 0302 99:</i>			
1302 41 00	--	Herrings ( <i>Clupea harengus, Clupea pallasii</i> )	kg.	30%	-
1302 42 00	--	Anchovies ( <i>Engraulis spp.</i> )	kg.	30%	-
1302 43 00	--	Sardines ( <i>Sardina pilchardus, Sardinops spp.</i> ), sardinella ( <i>Sardinella spp.</i> ), brisling or sprats ( <i>Sprattus sprattus</i> )	kg.	30%	-
1302 44 00	--	Mackerel ( <i>Scomber scombrus, Scomber australasicus, Scomber japonicus</i> )	kg.	30%	-
1302 45 00	--	Jack and horse mackerel ( <i>Trachurus spp.</i> )	kg.	30%	-
1302 46 00	--	Cobia ( <i>Rachycentron canadum</i> )	kg.	30%	-
1302 47 00	--	Sword fish ( <i>Xiphias gladius</i> )	kg.	30%	-
1302 49 00	--	Other	kg.	30%	-
	-	<i>Fish of the families Bregmacerotidae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae, excluding edible fish offal of sub-headings 0302 91 to 0302 99:</i>			
0302 51 00	--	Cod ( <i>Gadus morhua, Gadus ogac, Gadus macrocephalus</i> )	kg.	30%	-
0302 52 00	--	Haddock ( <i>Melanogrammus aeglefinus</i> )	kg.	30%	-
0302 53 00	--	Coal fish ( <i>Pollachinus virens</i> )	kg.	30%	-
0302 54 00	--	Hake ( <i>Merluccius spp., Urophycis spp.</i> )	kg.	30%	-
0302 55 00	--	Alaska Pollack ( <i>Theragra chalcogramma</i> )	kg.	30%	-
0302 56 00	--	Blue whittings ( <i>Micromesistius poutassou, Micromesistius australis</i> )	kg.	30%	-
0302 59 00	--	Other	kg.	30%	-
	-	<i>Tilapias (Oreochromis spp.), catfish (Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.), carp (Cyprinus spp., Carassius spp., Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp.), eels (Anguilla spp.), Nile perch (Lates niloticus) and snakeheads (Channa spp.), excluding edible fish offal of sub-headings 0302 91 to 0302 99:</i>			
0302 71 00	--	Tilapias ( <i>Oreochromis spp.</i> )	kg.	30%	-
0302 72 00	--	Catfish ( <i>Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.</i> )	kg.	30%	-
0302 73 00	--	Carp ( <i>Cyprinus spp., Carassius spp., Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp.</i> )	kg.	30%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
0302 74 00	--	Eels ( <i>Anguilla</i> spp.)	kg.	30%	-
0302 79 00	--	Other	kg.	30%	-
	-	Other fish excluding edible fish offal of sub-headings 0302 91 to 0302 99:			
0302 81 00	--	Dogfish and other sharks	kg.	30%	-
0302 82 00	--	Rays and skates ( <i>Rajidae</i> )	kg.	30%	-
0302 83 00	--	Tooth fish ( <i>Dissostichus</i> spp.)	kg.	30%	-
0302 84 00	--	Seabass ( <i>Dicentrarchus</i> spp.)	kg.	30%	-
0302 85 00	--	Seabream ( <i>Sparidae</i> )	kg.	30%	-
0302 89	--	Other:			
0302 89 10	- - -	Hilsa ( <i>Tenualosa ilisha</i> )	kg.	30%	-
0302 89 20	- - -	Dara	kg.	30%	-
0302 89 30	- - -	Pomfret	kg.	30%	-
0302 89 90	- - -	Other	kg.	30%	-
	-	Livers, roes, milt, fish fins, heads, tails, maws and other edible fish offal:			
0302 91	--	Livers, roes and milt:			
0302 91 10	- - -	Livers, roes and milt	kg.	30%	-
0302 92	--	Shark fins:			
0302 92 10	- - -	Shark fins	kg.	30%	-
0302 99	--	Other:			
0302 99 10	- - -	Fish fins other than shark fins; heads, tails and maws	kg.	30%	-
0302 99 90	- - -	Other edible fish offal	kg.	30%	- "

(iv) for heading 0303, tariff items 0303 11 00 to 0303 69 00, sub-heading 0303 81, tariff items 0303 81 10 to 0303 84 00, sub-heading 0303 89, tariff items 0303 89 10 to 0303 89 99, sub-heading 0303 90, tariff items 0303 90 10 to 0303 90 90 and the entries relating thereto, the following shall be substituted, namely:—

"0303		<b>FISH, FROZEN, EXCLUDING FISH FILLETS AND OTHER FISH MEAT OF HEADING 0304</b>			
	-	<i>Salmonidae, excluding edible fish offal of sub-headings 0303 91 to 0303 99:</i>			
0303 11 00	--	Sockeye salmon (red salmon) ( <i>Oncorhynchus nerka</i> )	kg.	30%	-
0303 12 00	--	Other Pacific salmon ( <i>Oncorhynchus gorbuscha</i> , <i>Oncorhynchus keta</i> , <i>Oncorhynchus tshawytscha</i> , <i>Oncorhynchus kisutch</i> , <i>Oncorhynchus masou</i> and <i>Oncorhynchus rhodurus</i> )	kg.	30%	-
0303 13 00	--	Atlantic salmon ( <i>Salmo salar</i> ) and Danube salmon ( <i>Hucho hucho</i> )	kg.	30%	-
0303 14 00	--	Trout ( <i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarkii</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i> , <i>Oncorhynchus apache</i> and <i>Oncorhynchus chrysogaster</i> )	kg.	30%	-
0303 19 00	--	Other	kg.	30%	-
	-	<i>Tilapias (Oreochromis spp.), catfish (Pangasius spp., Silurus</i>			



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
		spp., <i>Clarias</i> spp., <i>Ictalurus</i> spp.), carp ( <i>Cyprinus carpio</i> , <i>Carassius carassius</i> , <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys</i> spp., <i>Cirrhinus</i> spp., <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo</i> spp., <i>Osteochilus hasseltii</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama</i> spp., eels ( <i>Anguilla</i> spp.), Nile perch ( <i>Lates niloticus</i> ) and snakeheads, ( <i>Channa</i> spp.), excluding edible fish offal of sub-headings 0303 91 to 0303 99:			
0303 23 00	--	Tilapias ( <i>Oreochromis</i> spp.)	kg.	30%	-
0303 24 00	--	Catfish ( <i>Pangasius</i> spp., <i>Silurus</i> spp., <i>Clarias</i> spp., <i>Ictalurus</i> spp.)	kg.	30%	-
0303 25 00	--	Carp ( <i>Cyprinus carpio</i> , <i>Carassius carassius</i> , <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys</i> spp., <i>Cirrhinus</i> spp., <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo</i> spp., <i>Osteochilus hasseltii</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama</i> spp.)	kg.	30%	-
0303 26 00	--	Eels ( <i>Anguilla</i> spp.)	kg.	30%	-
0303 29 00	--	Other	kg.	30%	-
		Flat fish ( <i>Pleuronectidae</i> , <i>Bothidae</i> , <i>Cynoglossidae</i> , <i>Soleidae</i> , <i>Scophthalmidae</i> and <i>Citharidae</i> ), excluding edible fish offal of sub-headings 0303 91 to 0303 99:			
0303 31 00	--	Halibut ( <i>Rheinhardtius hippoglossidae</i> , <i>Hippoglossus hippoglossus</i> , <i>Hippoglossus stenolepis</i> )	kg.	30%	-
0303 32 00	--	Plaice ( <i>Pleuronectes platessa</i> )	kg.	30%	-
0303 33 00	--	Sole ( <i>Solea</i> spp.)	kg.	30%	-
0303 34 00	--	Turbots ( <i>Psetta maxima</i> )	kg.	30%	-
0303 39 00	--	Other	kg.	30%	-
		Tunas (of the genus <i>Thunnus</i> ), skipjack or stripe-bellied bonito ( <i>Euthynnus (Katsuwonus) pelamis</i> ), excluding edible fish offal of sub-headings 0303 91 to 0303 99:			
0303 41 00	--	Albacore or long finned tunas ( <i>Thunnus alalunga</i> )	kg.	30%	-
0303 42 00	--	Yellowfin tunas ( <i>Thunnus albacares</i> )	kg.	30%	-
0303 43 00	--	Skipjack or stripe-bellied bonito	kg.	30%	-
0303 44 00	--	Bigeye tunas ( <i>Thunnus obesus</i> )	kg.	30%	-
0303 45 00	--	Atlantic and Pacific bluefin tunas ( <i>Thunnus thynnus</i> , <i>Thunnus orientalis</i> )	kg.	30%	-
0303 46 00	--	Southern bluefin tunas ( <i>Thunnus maccoyii</i> )	kg.	30%	-
0303 49 00	--	Other	kg.	30%	-
		Herrings ( <i>Clupea harengus</i> , <i>Clupea pallasii</i> ), anchovies ( <i>Engraulis</i> spp.), sardines ( <i>Sardina pilchardus</i> , <i>Sardinops</i> spp.), sardinella ( <i>Sardinella</i> spp.), brisling or sprats ( <i>Sprattus sprattus</i> ), mackerel ( <i>Scomber scombrus</i> , <i>Scomber australasicus</i> , <i>Scomber japonicus</i> ), Indian mackerels ( <i>Rastrelliger</i> spp.), seerfishes ( <i>Scomberomorus</i> spp.), jack and horse mackerel ( <i>Trachurus</i> spp.), jacks, crevalles ( <i>Caranx</i> spp.), cobia ( <i>Rachycentron canadum</i> ), silver pomfrets ( <i>Pampus</i> spp.), Pacific saury ( <i>Cololabis saira</i> ), scads ( <i>Decapterus</i> spp.), capelin ( <i>Mallotus villosus</i> ), Sword fish ( <i>Xiphias gladius</i> ), Kawakawa ( <i>Euthynnus affinis</i> ), bonitos ( <i>Sarda</i> spp.), marlins, sailfishes, spearfish ( <i>Istiophoridae</i> ), excluding edible fish offal of sub-headings 0303 91 to 0303 99:			



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
0303 51 00	Herrings ( <i>Clupea harengus</i> , <i>Clupea pallasii</i> )	kg.	30%	-
0303 53 00	Sardines ( <i>Sardina pilchardus</i> , <i>Sardinops</i> spp.), sardinella ( <i>Sardinella</i> spp.), brisling or sprats ( <i>Sprattus sprattus</i> )	kg.	30%	-
0303 54 00	Mackerel ( <i>Scomber scombrus</i> , <i>Scomber australasicus</i> , <i>Scomber japonicus</i> )	kg.	30%	-
0303 55 00	Jack and horse mackerel ( <i>Trachurus</i> spp.)	kg.	30%	-
0303 56 00	Cobia ( <i>Rachycentron canadum</i> )	kg.	30%	-
0303 57 00	Sword fish ( <i>Xiphias gladius</i> )	kg.	30%	-
0303 59 00	Other	kg.	30%	-
-	Fish of the families Bregmacerotidae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae, excluding edible fish offal of sub-headings 0303 91 to 0303 99:			
0303 63 00	Cod ( <i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i> )	kg.	30%	-
0303 64 00	Haddock ( <i>Melanogrammus aeglefinus</i> )	kg.	30%	-
0303 65 00	Coalfish ( <i>Pollachius virens</i> )	kg.	30%	-
0303 66 00	Hake ( <i>Merluccius</i> spp., <i>Urophycis</i> spp.)	kg.	30%	-
0303 67 00	Alaska Pollack ( <i>Theragra chalcogramma</i> )	kg.	30%	-
0303 68 00	Blue whittings ( <i>Micromesistius poutassou</i> , <i>Micromesistius australis</i> )	kg.	30%	-
0303 69 00	Other	kg.	30%	-
-	Other fish, excluding edible fish offal of sub-headings 0303 91 to 0303 99:			
0303 81	Dogfish and other sharks:			
0303 81 10	Dogfish	kg.	30%	-
0303 81 90	Other Sharks	kg.	30%	-
0303 82 00	Rays and skates ( <i>Rajidae</i> )	kg.	30%	-
0303 83 00	Tooth fish ( <i>Dissostichus</i> spp.)	kg.	30%	-
0303 84 00	Seabass ( <i>Dicentrarchus</i> spp.)	kg.	30%	-
0303 89	Other:			
0303 89 10	Hilsa ( <i>Tenualosa ilisha</i> )	kg.	30%	-
0303 89 20	Dara	kg.	30%	-
0303 89 30	Ribbon fish	kg.	30%	-
0303 89 40	Seer	kg.	30%	-
0303 89 50	Pomfret (white or silver or black)	kg.	30%	-
0303 89 60	Ghol	kg.	30%	-
0303 89 70	Threadfin	kg.	30%	-
0303 89 80	Croakers, groupers and flounders	kg.	30%	-
0303 89 90	Other	kg.	30%	-
-	Livers, roes, milk fish fins, heads, tails, maws and other edible fish offal:			



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
0303 91	- -	<i>Livers, roes and milt:</i>			
0303 91 10	- - -	Egg or egg yolk of fish	kg.	30%	-
0303 91 90	- - -	Other	kg.	30%	-
0303 92	- -	<i>Shark fins:</i>			
0303 92 10	- - -	Shark fins	kg.	30%	-
0303 99	- -	<i>Other:</i>			
0303 99 10	- - -	Fish fins other than shark fins, heads, tails and maws	kg.	30%	-
0303 99 90	- - -	Other edible fish offal	kg.	30%	-";

(v) in heading 0304,—

(a) for the entry in column (2) occurring after the entry against heading 0304, the following shall be substituted, namely:—

“— *Fresh or chilled fillets of tilapias (Oreochromis spp.), catfish (Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.), carp (Cyprinus spp., Carassius spp., Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp.), eels (Anguilla spp.), Nile perch (Lates niloticus) and snakeheads (Channa spp.):*”

(b) for tariff items 0304 46 00 to 0304 99 00 and the entries relating thereto, the following shall be substituted, namely:—

0304 46 00	- -	Tooth fish ( <i>Dissostichus spp.</i> )	kg.	30%	-
0304 47 00	- -	Dogfish and other sharks	kg.	30%	-
0304 48 00	- -	Rays and skates ( <i>Rajidae</i> )	kg.	30%	-
0304 49	- -	<i>Other:</i>			
0304 49 10	- - -	Hilsa ( <i>Tenualosa ilisha</i> )	kg.	30%	-
0304 49 30	- - -	Seer	kg.	30%	-
0304 49 40	- - -	Tuna	kg.	30%	-
0304 49 90	- - -	Other	kg.	30%	-
		<i>Other, fresh or chilled:</i>			
0304 51 00	- -	Tilapias ( <i>Oreochromis spp.</i> ), catfish ( <i>Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.</i> ), carp ( <i>Cyprinus spp., Carassius spp., Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp.</i> ), eels ( <i>Anguilla spp.</i> ), Nile perch ( <i>Lates niloticus</i> ) and snakeheads ( <i>Channa spp.</i> )	kg.	30%	-
0304 52 00	- -	Salmonidae	kg.	30%	-
0304 53 00	- -	Fish of the families Bregmacerotidae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae	kg.	30%	-
0304 54 00	- -	Sword fish ( <i>Xiphias gladius</i> )	kg.	30%	-
0304 55 00	- -	Tooth fish ( <i>Dissostichus spp.</i> )	kg.	30%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
0304 56 00	--	Dogfish and other sharks	kg.	30%	-
0304 57 00	--	Rays and skates ( <i>Rajidae</i> )	kg.	30%	-
0304 59	--	Other:			
0304 59 10	---	Hilsa ( <i>Tenualosa ilisha</i> )	kg.	30%	-
0304 59 30	---	Seer	kg.	30%	-
0304 59 40	---	Tuna	kg.	30%	-
0304 59 90	---	Other	kg.	30%	-
		Frozen fillets of tilapias ( <i>Oreochromis</i> spp.), catfish ( <i>Pangasius</i> spp., <i>Silurus</i> spp., <i>Clarias</i> spp., <i>Ictalurus</i> spp.), carp ( <i>Cyprinus</i> spp., <i>Carassius</i> spp., <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys</i> spp., <i>Cirrhinus</i> spp., <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo</i> spp., <i>Osteochilus hasselti</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama</i> spp.), eels ( <i>Anguilla</i> spp.), Nile perch ( <i>Lates niloticus</i> ) and snakeheads ( <i>Channa</i> spp.):			
0304 61 00	--	Tilapias ( <i>Oreochromis</i> spp.)	kg.	30%	-
0304 62 00	--	Catfish ( <i>Pangasius</i> spp., <i>Silurus</i> spp., <i>Clarias</i> spp., <i>Ictalurus</i> spp.)	kg.	30%	-
0304 63 00	--	Nile Perch ( <i>Lates niloticus</i> )	kg.	30%	-
0304 69 00	--	Other	kg.	30%	-
		Frozen fillets of fish of <i>Bregmacerolidae</i> , <i>Euclichthyidae</i> , <i>Gadidae</i> , <i>Macrouridae</i> , <i>Melanonidae</i> , <i>Merlucciidae</i> , <i>Moridae</i> and <i>Muraenolepididae</i> :			
0304 71 00	--	Cod ( <i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i> )	kg.	30%	-
0304 72 00	--	Haddock ( <i>Melanogrammus aeglefinus</i> )	kg.	30%	-
0304 73 00	--	Coel fish ( <i>Pollachius virens</i> )	kg.	30%	-
0304 74 00	--	Hake ( <i>Merluccius</i> spp., <i>Urophycis</i> spp.)	kg.	30%	-
0304 75 00	--	Alaska Pollack ( <i>Theragra chalcogramma</i> )	kg.	30%	-
0304 79 00	--	Other	kg.	30%	-
		Frozen fillets of other fish:			
0304 81 00	--	Pacific salmon ( <i>Oncorhynchus nerka</i> , <i>Oncorhynchus gorbuscha</i> , <i>Oncorhynchus keta</i> , <i>Oncorhynchus tshawytscha</i> , <i>Oncorhynchus kisutch</i> , <i>Oncorhynchus masou</i> and <i>Oncorhynchus rhodurus</i> ), Atlantic salmon ( <i>Salmo salar</i> ) and Danube salmon ( <i>Hucho hucho</i> )	kg.	30%	-
0304 82 00	--	Trout ( <i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarkii</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i> , <i>Oncorhynchus apache</i> and <i>Oncorhynchus chrysogaster</i> )	kg.	30%	-
0304 83 00	--	Flat fish ( <i>Pleuronectidae</i> , <i>Bothidae</i> , <i>Cynoglossidae</i> , <i>Soleidae</i> , <i>Scophthalmidae</i> and <i>Citharidae</i> )	kg.	30%	-
0304 84 00	--	Sword fish ( <i>Xiphias gladius</i> )	kg.	30%	-
0304 85 00	--	Tooth fish ( <i>Dissostichus</i> spp.)	kg.	30%	-
0304 86 00	--	Herrings ( <i>Clupea harengus</i> , <i>Clupea pallasii</i> )	kg.	30%	-
0304 87 00	--	Tunas (of the genus <i>Thunnus</i> ), skipjack or stripe-bellied bonito	kg.	30%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
		<i>(Euthynnus (Katsuwonus) pelamis)</i>			
0304 88	--	Dogfish, other sharks Rays and skates ( <i>Rajidae</i> ):			
0304 88 10	---	Dogfish	kg.	30%	-
0304 88 20	---	Other sharks	kg.	30%	-
0304 88 30	---	Rays and skates ( <i>Rajidae</i> )	kg.	30%	-
0304 89	--	Other:			
0304 89 10	---	Hilsa ( <i>Tenualosa ilisha</i> )	kg.	30%	-
0304 89 30	---	Seer	kg.	30%	-
0304 89 40	---	Tuna	kg.	30%	-
0304 89 90	---	Other	kg.	30%	-
	-	Other, frozen:			
0304 91 00	--	Sword fish ( <i>Xiphias gladius</i> )	kg.	30%	-
0304 92 00	--	Tooth fish ( <i>Dissostichus spp.</i> )	kg.	30%	-
0304 93 00	--	Tilapias ( <i>Oreochromis spp.</i> ), catfish ( <i>Pangasius spp.</i> , <i>Silurus spp.</i> , <i>Clarias spp.</i> , <i>Ictalurus spp.</i> ), carp ( <i>Cyprinus spp.</i> , <i>Carassius spp.</i> , <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys spp.</i> , <i>Cirrhinus spp.</i> , <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo spp.</i> , <i>Osteochilus hasselti</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama spp.</i> ), eels ( <i>Anguilla spp.</i> ), Nile perch ( <i>Lates niloticus</i> ) and snakeheads ( <i>Channa spp.</i> )	kg.	30%	-
0304 94 00	--	Alaska Pollack ( <i>Theragra chalcogramma</i> )	kg.	30%	-
0304 95 00	--	Fish of the families Bregmacerotidae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae, Alaska Pollack ( <i>Theragra chalcogramma</i> )	kg.	30%	-
0304 96 00	--	Dogfish and other sharks	kg.	30%	-
0304 97 00	--	Rays and skates ( <i>Rajidae</i> )	kg.	30%	-
0304 99 00	--	Other	kg.	30%	-";

(vi) in heading 0305,—

(a) for tariff item 0305 20 00 and the entries relating thereto, the following shall be substituted, namely:—

0305 20 00	-	Livers, roes and milt of fish, dried, smoked, salted or in brine	kg.	30%	-";
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(b) for tariff item 0305 31 00 and the entries relating thereto, the following shall be substituted, namely:—

0305 31 00	--	Tilapias ( <i>Oreochromis spp.</i> ), catfish ( <i>Pangasius spp.</i> , <i>Silurus spp.</i> , <i>Clarias spp.</i> , <i>Ictalurus spp.</i> ), carp ( <i>Cyprinus spp.</i> , <i>Carassius spp.</i> , <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys spp.</i> , <i>Cirrhinus spp.</i> , <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo spp.</i> , <i>Osteochilus hasselti</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama spp.</i> ), eels ( <i>Anguilla spp.</i> ), Nile perch ( <i>Lates niloticus</i> ) and snakeheads ( <i>Channa spp.</i> )	kg.	30%	-";
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(c) for tariff item 0305 44 00 and the entries relating thereto, the following shall be substituted, namely:—

0305 44 00	--	Tilapias ( <i>Oreochromis spp.</i> ), catfish ( <i>Pangasius spp.</i> , <i>Silurus spp.</i> , <i>Clarias spp.</i> , <i>Ictalurus spp.</i> ), carp ( <i>Cyprinus spp.</i> , <i>Carassius spp.</i> )	kg.	30%	-";
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Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)

*spp.*, *Ctenopharyngodon idellus*, *Hypophthalmichthys spp.*, *Cirrhinus spp.*, *Mylopharyngodon piceus*, *Catla catla*, *Labeo spp.*, *Osteochilus hasselti*, *Leptobarbus hoeveni*, *Megalobrama spp.*, eels (*Anguilla spp.*), Nile perch (*Lates niloticus*) and snakeheads (*Channa spp.*)

(d) after tariff item 0305 51 00 and the entries relating thereto, the following shall be inserted, namely:—

“0305 52 00	--	Tilapias ( <i>Oreochromis spp.</i> ), catfish ( <i>Pangasius spp.</i> , <i>Silurus spp.</i> , <i>Clarias spp.</i> , <i>Ictalurus spp.</i> ), carp ( <i>Cyprinus spp.</i> , <i>Carassius spp.</i> , <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys spp.</i> , <i>Cirrhinus spp.</i> , <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo spp.</i> , <i>Osteochilus hasselti</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama spp.</i> ), eels ( <i>Anguilla spp.</i> ), Nile perch ( <i>Lates niloticus</i> ) and snakeheads ( <i>Channa spp.</i> )	kg.	30%	-
0305 53 00	--	Fish of the families Bregmaceridae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae, other than cod ( <i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i> )	kg.	30%	-
0305 54 00	--	Herrings ( <i>Clupea harengus</i> , <i>Clupea pallasii</i> ), anchovies ( <i>Engraulis spp.</i> ), sardines ( <i>Sardina pilchardus</i> , <i>Sardinops spp.</i> ), sardinella ( <i>Sardinella spp.</i> ), brisling or sprats ( <i>Sprattus sprattus</i> ), mackerel ( <i>Scomber scombrus</i> , <i>Scomber australasicus</i> , <i>Scomber japonicus</i> ), Indian mackerels ( <i>Rastrelliger spp.</i> ), seerfishes ( <i>Scomberomorus spp.</i> ), jack and horse mackerel ( <i>Trachurus spp.</i> ), jacks, crevalles ( <i>Caranx spp.</i> ), cobia ( <i>Rachycentron canadum</i> ), silver pomfrets ( <i>Pampus spp.</i> ), Pacific saury ( <i>Cololabis saira</i> ), scads ( <i>Decapterus spp.</i> ), capelin ( <i>Mallotus villosus</i> ), sword fish ( <i>Xiphias gladius</i> ), Kawakawa ( <i>Euthynnus affinis</i> ), bonitos ( <i>Sarda spp.</i> ), marlins, sailfishes, spearfish ( <i>Istiophoridae</i> )	kg.	30%	-”;

(e) for tariff item 0305 64 00 and the entries relating thereto, the following shall be substituted, namely:—

“0305 64 00	--	Tilapias ( <i>Oreochromis spp.</i> ), catfish ( <i>Pangasius spp.</i> , <i>Silurus spp.</i> , <i>Clarias spp.</i> , <i>Ictalurus spp.</i> ), carp ( <i>Cyprinus spp.</i> , <i>Carassius spp.</i> , <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys spp.</i> , <i>Cirrhinus spp.</i> , <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo spp.</i> , <i>Osteochilus hasselti</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama spp.</i> ), eels ( <i>Anguilla spp.</i> ), Nile perch ( <i>Lates niloticus</i> ) and snakeheads ( <i>Channa spp.</i> )	kg.	30%	-”;
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(vii) in heading 0306, for tariff items 0306 19 00 to 0306 29 00 and the entries relating thereto, the following shall be substituted, namely:—

“0306 19 00	--	Other, including flours, meals and pellets of crustaceans, fit for human consumption	kg.	30%	-
	--	Live, fresh or chilled:			
0306 31 00	--	Rock lobster and other sea crawfish ( <i>Palinurus spp.</i> , <i>Jasus spp.</i> )	kg.	30%	-
0306 32 00	--	Lobsters ( <i>Homarus spp.</i> )	kg.	30%	-
0306 33 00	--	Crabs	kg.	30%	-
0306 34 00	--	Norway lobsters ( <i>Nephrops norvegicus</i> )	kg.	30%	-
0306 35 00	--	Cold water shrimps and prawns ( <i>Pandalus spp.</i> , <i>Crangon crangon</i> )	kg.	30%	-
0306 36 00	--	Other shrimps and prawns	kg.	30%	-
0306 39 00	--	Other, including flours, meals and pellets of crustaceans, fit for human consumption	kg.	30%	-



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
-	<i>Other:</i>			
0306 91 00	-- Rock lobster and other sea crawfish ( <i>Palinurus spp.</i> , <i>Jasus spp.</i> )	kg.	30%	-
0306 92 00	-- Lobsters ( <i>Homarus spp.</i> )	kg.	30%	-
0306 93 00	-- Crabs	kg.	30%	-
0306 94 00	-- Norway lobsters ( <i>Nephrops norvegicus</i> )	kg.	30%	-
0306 95 00	-- Shrimps and prawns	kg.	30%	-
0306 99 00	-- Other, including flours, meals and pellets of crustaceans, fit for human consumption	kg.	30%	-";

(viii) in heading 0307,—

(a) after tariff item 0307 11 00 and the entries relating thereto, the following shall be inserted, namely:—

0307 12 00	--	Frozen	kg.	30%	-";
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(b) after tariff item 0307 21 00 and the entries relating thereto, the following shall be inserted, namely:—

0307 22 00	--	Frozen	kg.	30%	-";
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(c) after tariff item 0307 31 00 and the entries relating thereto, the following shall be inserted, namely:—

0307 32 00	--	Frozen	kg.	30%	-";
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(d) for tariff items 0307 39 90 to 0307 49 90 and the entries relating thereto, the following shall be substituted, namely:—

0307 39 90	---	Other	kg.	30%	-
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*Cuttle fish and squid:*

0307 42 -- *Live, fresh or chilled:*

0307 42 10	---	Cuttle fish	kg.	30%	-
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0307 42 20	---	Squid	kg.	30%	-
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0307 43 -- *Frozen:*

0307 43 10	---	Cuttle fish	kg.	30%	-
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0307 43 20	---	Whole squids	kg.	30%	-
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0307 43 30	---	Squid tubes	kg.	30%	-
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0307 49 -- *Other:*

0307 49 10	---	Cuttle fish	kg.	30%	-
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0307 49 20	---	Whole squids	kg.	30%	-
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0307 49 30	---	Squid tubes	kg.	30%	-
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0307 49 40	---	Dried squids	kg.	30%	-
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0307 49 90	---	Other	kg.	30%	-";
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(e) after tariff item 0307 51 00 and the entries relating thereto, the following shall be inserted, namely:—

0307 52 00	--	Frozen	kg.	30%	-";
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(f) after tariff item 0307 71 00 and the entries relating thereto, the following shall be inserted, namely:—

0307 72 00	--	Frozen	kg.	30%	-";
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Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
(g) for tariff items 0307 79 00 to 0307 89 00 and the entries relating thereto, the following shall be substituted, namely:—					
“0307 79 00	--	Other	kg.	30%	-
	-	<i>Abalone (Haliotis Spp.) and stromboid conchs (Strombus spp.):</i>			
0307 81 00	--	Live, fresh or chilled abalone ( <i>Haliotis spp.</i> )	kg.	30%	-
0307 82 00	--	Live, fresh or chilled stromboid conchs ( <i>Strombus spp.</i> )	kg.	30%	-
0307 83 00	--	Frozen abalone ( <i>Haliotis spp.</i> )	kg.	30%	-
0307 84 00	--	Frozen stromboid conchs ( <i>Strombus spp.</i> )	kg.	30%	-
0307 87 00	--	Other abalone ( <i>Haliotis spp.</i> )	kg.	30%	-
0307 88 00	--	Other stromboid conchs ( <i>Strombus spp.</i> )	kg.	30%	- ”;
(h) after tariff item 0307 91 00 and the entries relating thereto, the following shall be inserted, namely:—					
“0307 92 00	--	Frozen	kg.	30%	- ”;
(ix) in heading 0308,—					
(a) for the entry in column (2) occurring after the entry against heading 0308, the following shall be substituted, namely:—					
“- <i>Sea cucumbers (Stichopus japonicus, Holothuroidea):</i> ”;					
(b) after tariff item 0308 11 00 and the entries relating thereto, the following shall be inserted, namely:—					
“0308 12 00	--	Frozen	kg.	30%	- ”;
(c) for tariff items 0308 19 00 to 0308 21 00 and the entries relating thereto, the following shall be substituted, namely:—					
“0308 19 00	--	Other	kg.	30%	-
	-	<i>Sea urchins (Strongylocentrotus spp., Paracentrotus lividus, Loxechinus albus, Echinus esculentus):</i>			
0308 21 00	--	Live, fresh or chilled	kg.	30%	-
0308 22 00	--	Frozen	kg.	30%	- ”;
(2) in Chapter 4, in Note 4,—					
(A) in clause (a), the word “or” shall be omitted;					
(B) after clause (a), the following clause shall be inserted, namely:—					
“(b) products obtained from milk by replacing one or more of its natural constituents (for example, butyric fats) by another substance (for example, oleic fats) (heading 1901 or 2106); or”;					
(C) the existing clause (b) shall be re-lettered as (c);					
(3) in Chapter 5, for Note 4, the following Note shall be substituted, namely:—					
“4. Throughout the Schedule, the expression “horsehair” means hair of the manes or tails of equine or bovine animals. Heading 0511 covers, <i>inter alia</i> , horsehair and horsehair waste, whether or not put up as a layer with or without supporting material.”;					
(4) in Chapter 8, in heading 0805, for tariff item 0805 20 00 and the entries relating thereto, the following shall be substituted, namely:—					
“- <i>Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids:</i>					
0805 21 00	--	Mandarins (including tangerines and satsumas)	kg.	30%	-
0805 22 00	--	Clementines	kg.	30%	-
0805 29 00	--	Other	kg.	30%	- ”;



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)

(5) in Chapter 12,—

(i) for heading 1211 and the entries relating thereto, the following shall be substituted, namely:—

“1211	PLANTS AND PARTS OF PLANTS (INCLUDING SEEDS AND FRUITS), OF A KIND USED PRIMARILY IN PERFUMERY, IN PHARMACY OR FOR INSECTICIDAL, FUNGICIDAL OR SIMILAR PURPOSE, FRESH, CHILLED, FROZEN OR DRIED, WHETHER OR NOT CUT, CRUSHED OR POWDERED”;			
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(ii) after tariff item 1211 40 00 and the entries relating thereto, the following shall be inserted, namely:—

“1211 50 00	- Ephedra	kg.	30%	-”;
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(6) in Chapter 13, in heading 1302, after tariff item 1302 13 00 and the entries relating thereto, the following shall be inserted, namely:—

“1302 14 00	-- Of ephedra	kg.	30%	-”;
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(7) in Chapter 16,—

(i) in Sub-heading Note 1, for the words “as infant food”, the words “as food suitable for infants or young children” shall be substituted;

(ii) in heading 1604, after tariff item 1604 17 00 and the entries relating thereto, the following shall be inserted, namely:—

“1604 18 00	-- Shark fins	kg.	30%	-”;
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(8) in Chapter 19, for sub-heading 1901 10 and the entries relating thereto, the following shall be substituted, namely:—

“1901 10	- Preparations suitable for infants or young children, put up for retail sale.”;			
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(9) in Chapter 20,—

(i) in Sub-heading Note 1, for the words “as infant food”, the words “as food suitable for infants or young children” shall be substituted;

(ii) in Sub-heading Note 2, for the words “as infant food”, the words “as food suitable for infants or young children” shall be substituted;

(10) in Chapter 21, in Sub-heading Note 3, for the words “as infant food”, the words “as food suitable for infants or young children” shall be substituted ;

(11) in Chapter 22,—

(i) for sub-heading 2202 90, tariff items 2202 90 10 to 2202 90 90 and the entries relating thereto, the following shall be substituted, namely:—

	-	Other:			
2202 91 00	--	Non alcoholic beer	l	30%	-
2202 99	--	Other:			
2202 99 10	---	Soya milk drinks, whether or not sweetened or flavoured	l	30%	-
2202 99 20	---	Fruit pulp or fruit juice based drink	l	30%	-
2202 99 30	---	Beverages containing milk	l	30%	-
2202 99 90	---	Other	l	30%	-”;

(ii) after tariff item 2204 21 90 and the entries relating thereto, the following shall be inserted, namely:—

“2204 22	--	In containers holding more than 2 l but not more than 10 l:			
2204 22 10	---	Port and other red wines	l	150%	-
2204 22 20	---	Sherry and other white wines	l	150%	-
2204 22 90	---	Other	l	150%	-”;



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)

(iii) for tariff item 2206 00 00 and the entries relating thereto, the following shall be substituted, namely:—

2206 00 00	OTHER FERMENTED BEVERAGES (FOR EXAMPLE, CIDER, PERRY, MEAD, SAKE); MIXTURES OF FERMENTED BEVERAGES AND NON-ALCOHOLIC BEVERAGES, NOT ELSEWHERE SPECIFIED OR INCLUDED	l	150%	-";
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(12) in Chapter 27,—

(i) for Sub-heading Note 4, the following shall be substituted, namely:—

“4. For the purposes of sub-heading 2710 12, “light oils and preparations” are those of which 90 % or more by volume (including losses) distil at 210 °C according to the ISO 3405 method (equivalent to the ASTM D 86 method).”;

(ii) for tariff item 2707 50 00 and the entries relating thereto, the following shall be substituted, namely:—

2707 50 00	Other aromatic hydrocarbon mixtures of which 65 % or more by volume (including losses) distils at 250 °C by the ISO 3405 method (equivalent to the ASTM D 86 method)	kg.	10%	-";
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(13) in Chapter 28,—

(i) for Note 7, the following shall be substituted, namely:—

“7. Heading 2853 includes copper phosphide (phosphor copper) containing more than 15 % by weight of phosphorus.”;

(ii) after tariff item 2811 11 00 and the entries relating thereto, the following shall be inserted, namely:—

2811 12 00	Hydrogen cyanide (hydrocyanic acid)	kg.	10%	-";
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(iii) tariff item 2811 19 10 and the entries relating thereto shall be omitted;

(iv) for sub-heading 2812 10, tariff items 2812 10 10 to 2812 90 00 and the entries relating thereto, the following shall be substituted, namely:—

<i>Chlorides and chloride oxides:</i>				
2812 11 00	Carbonyl dichloride (phosgene)	kg.	10%	-
2812 12 00	Phosphorous oxychloride	kg.	10%	-
2812 13 00	Phosphorous trichloride	kg.	10%	-
2812 14 00	Phosphorous pentachloride	kg.	10%	-
2812 15 00	Sulphur monochloride	kg.	10%	-
2812 16 00	Sulphur dichloride	kg.	10%	-
2812 17 00	Thionyl chloride	kg.	10%	-
<i>Other:</i>				
2812 19 10	Sulphur oxychloride	kg.	10%	-
2812 19 20	Silicon tetrachloride	kg.	10%	-
2812 19 30	Arsenous trichloride	kg.	10%	-
2812 19 90	Other	kg.	10%	-
2812 90 00	Other	kg.	10%	-";

(v) the heading 2848, sub-heading 2848 00, tariff items 2848 00 10 to 2848 00 90 and the entries relating thereto shall be omitted;

(vi) for heading 2853, sub-heading 2853 00, tariff items 2853 00 10 to 2853 00 99 and the entries relating thereto, the following shall be substituted, namely:—

2853	PHOSPHIDES, WHETHER OR NOT CHEMICALLY DEFINED, EXCLUDING FERROPHOSPHORUS; OTHER INORGANIC COMPOUNDS (INCLUDING DISTILLED OR CONDUCTIVITY
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Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
		<b>WATER AND WATER OF SIMILAR PURITY); LIQUID AIR (WHETHER OR NOT RARE GASES HAVE BEEN REMOVED); COMPRESSED AIR; AMALGAMS, OTHER THAN AMALGAMS OF PRECIOUS METALS</b>			
2853 10 00	-	Cyanogen chloride (chlorocyan)	kg.	10%	-
2853 90	-	<i>Other:</i>			
2853 90 10	---	Distilled or conductivity water and water of similar purity	kg.	10%	-
2853 90 20	---	Liquid air, whether or not rare gases have been removed	kg.	10%	-
2853 90 30	---	Compressed air	kg.	10%	-
2853 90 40	---	Amalgams, other than of precious metals	kg.	10%	-
2853 90 90	---	Other	kg.	10%	-";

(14) in Chapter 29,—

(i) after tariff item 2903 82 00 and the entries relating thereto, the following shall be inserted, namely:—

"2903 83 00	--	Mirex (ISO)	kg.	10%	-";
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(ii) after tariff item 2903 92 29 and the entries relating thereto, the following shall be inserted, namely:—

"2903 93 00	--	Pentachlorobenzene (ISO)	kg.	10%	-
2903 94 00	--	Hexabromobiphenyls	kg.	10%	-";

(iii) in heading 2904,—

(a) after tariff item 2904 20 90 and the entries relating thereto, the following shall be inserted, namely:—

"	-	<i>Perfluorooctane sulphonic acid, its salts and perfluorooctane sulphonyl fluoride:</i>			
2904 31 00	--	Perfluorooctane sulphonic acid	kg.	10%	-
2904 32 00	--	Ammonium perfluorooctane sulphonate	kg.	10%	-
2904 33 00	--	Lithium perfluorooctane sulphonate	kg.	10%	-
2904 34 00	--	Potassium perfluorooctane sulphonate	kg.	10%	-
2904 35 00	--	Other salts of perfluorooctane sulphonic acid	kg.	10%	-
2904 36 00	--	Perfluorooctane sulphonyl fluoride	kg.	10%	-";

(b) for sub-heading 2904 90, tariff items 2904 90 10 to 2904 90 90 and the entries relating thereto, the following shall be substituted, namely:—

"	-	<i>Other:</i>			
2904 91 00	--	Trichloronitromethane (chloropicrin)	kg.	10%	-
2904 99	--	<i>Other:</i>			
2904 99 10	---	2, 5 dichloronitrobenzene	kg.	10%	-
2904 99 20	---	Dinitrochlorobenzene	kg.	10%	-
2904 99 30	---	Meta nitrochlorobenzene	kg.	10%	-
2904 99 40	---	Ortho nitrochlorobenzene	kg.	10%	-
2904 99 50	---	Para nitrochlorobenzene	kg.	10%	-
2904 99 60	---	2-nitrochlorotoluene	kg.	10%	-
2904 99 70	---	Sodium meta nitrochlorobenzene sulphonate	kg.	10%	-
2904 99 90	---	Other	kg.	10%	-";



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
(iv) after tariff item 2910 40 00 and the entries relating thereto, the following shall be inserted, namely:—				
“2910 50 00	- Endrin (ISO)	kg.	10%	- ”;
(v) in heading 2914,—				
(a) after tariff item 2914 61 00 and the entries relating thereto, the following shall be inserted, namely:—				
“2914 62 00	-- Coenzyme Q10 (ubidecarenone (INN))	kg.	10%	- ”;
(b) for sub-heading 2914 70, tariff items 2914 70 10 to 2914 70 90 and the entries relating thereto, the following shall be substituted, namely:—				
“	<i>Halogenated, sulphonated, nitrated or nitrosated derivatives:</i>			
2914 71 00	-- Chlordecone (ISO)	kg.	10%	-
2914 79	-- <i>Other:</i>			
2914 79 10	--- 1-chloro anthraquinone	kg.	10%	-
2914 79 20	--- Musk ketone	kg.	10%	-
2914 79 90	--- Other	kg.	10%	- ”;
(vi) after tariff item 2918 16 90 and the entries relating thereto, the following shall be inserted, namely:—				
“2918 17 00	-- 2, 2-Diphenyl-2-hydroxyacetic acid (benzilic acid)	kg.	10%	- ”;
(vii) for sub-heading 2920 90, tariff items 2920 90 10 to 2920 90 44 and the entries relating thereto, the following shall be substituted, namely:—				
“	<i>Phosphite esters and their salts; their halogenated, sulphonated, nitrated or nitrosated derivatives:</i>			
2920 21 00	-- Dimethyl phosphite	kg.	10%	-
2920 22 00	-- Diethyl phosphite	kg.	10%	-
2920 23 00	-- Trimethyl phosphite	kg.	10%	-
2920 24 00	-- Triethyl phosphite	kg.	10%	-
2920 29	-- <i>Other:</i>			
2920 29 10	--- Dimethyl sulphate	kg.	10%	-
2920 29 20	--- Diethyl sulphate	kg.	10%	-
2920 29 30	--- Tris (2, 3 Dibromopropyl) phosphate	kg.	10%	-
2920 29 90	--- Other	kg.	10%	-
2920 30 00	- Endosulfan (ISO)	kg.	10%	- ”;
(viii) for sub-heading 2921 19, tariff items 2921 19 11 to 2921 19 90 and the entries relating thereto, the following shall be substituted, namely:—				
“2921 12 00	-- 2-(N, N-Dimethylamino)ethylchloride hydrochloride	kg.	10%	-
2921 13 00	-- 2-(N, N-Diethylamino)ethylchloride hydrochloride	kg.	10%	-
2921 14 00	-- 2-(N, N-Diisopropylamino)ethylchloride hydrochloride	kg.	10%	-
2921 19	-- <i>Other:</i>			
2921 19 10	--- 2-Chloro N, N-Diisopropyl ethylamine	kg.	10%	-
2921 19 20	--- 2-Chloro N, N-Dimethyl ethanamine	kg.	10%	-
2921 19 90	--- Other	kg.	10%	- ”;
(ix) for sub-heading 2922 12, tariff items 2922 12 10 to 2922 12 90 and the entries relating thereto, the following shall be substituted, namely:—				



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
"2922 12 00 --	Diethanolamine and its salts	kg.	10%	-";
(x) for sub-heading 2922 13, tariff items 2922 13 10 to 2922 13 90, tariff item 2922 14 00, sub-heading 2922 19, tariff items 2922 19 40 to 2922 19 90 and the entries relating thereto, the following shall be substituted, namely:—				
"2922 14 00 --	Dextropropoxyphene (INN) and its salts	kg.	10%	-
2922 15 00 --	Triethanolamine	kg.	10%	-
2922 16 00 --	Diethanolammonium perfluorooctane sulphonate	kg.	10%	-
2922 17 --	<i>Methyldiethanolamine and ethyldiethanolamine:</i>			
2922 17 10 ---	Methyldiethanolamine	kg.	10%	-
2922 17 20 ---	Ethyldiethanolamine	kg.	10%	-
2922 18 00 --	2-(N, N-Diisopropylamino) ethanol	kg.	10%	-
2922 19 --	<i>Other:</i>			
2922 19 10 ---	2-Hydroxy N, N-Diisopropyl ethylamine	kg.	10%	-
2922 19 90 ---	Other	kg.	10%	-";
(xi) after tariff item 2923 20 90 and the entries relating thereto, the following shall be inserted, namely:—				
"2923 30 00 -	Tetraethylammonium perfluorooctane sulphonate	kg.	10%	-
2923 40 00 -	Didecyldimethylammonium perfluorooctane sulphonate	kg.	10%	-";
(xii) after tariff item 2924 24 00 and the entries relating thereto, the following shall be inserted, namely:—				
"2924 25 00 --	Alachlor (ISO)	kg.	10%	-";
(xiii) after tariff item 2926 30 00 and the entries relating thereto, the following shall be inserted, namely:—				
"2926 40 00 -	Alpha-phenylacetoacetonitrile	kg.	10%	-";
(xiv) for tariff item 2930 50 00 and the entries relating thereto, the following shall be substituted, namely:—				
"2930 60 00 -	2-(N, N-Diethylamino)ethanethiol	kg.	10%	-
2930 70 00 -	Bis(2-hydroxyethyl)sulfide (thiodiglycol (INN))	kg.	10%	-
2930 80 00 -	Aldicarb (ISO), captafol (ISO) and methamidophos (ISO)	kg.	10%	-";
(xv) after tariff item 2931 20 00 and the entries relating thereto, the following shall be inserted, namely:—				
" --	<i>Other organo-phosphorous derivatives:</i>			
2931 31 00 --	Dimethyl methylphosphonate	kg.	10%	-
2931 32 00 --	Dimethyl propylphosphonate	kg.	10%	-
2931 33 00 --	Diethyl ethylphosphonate	kg.	10%	-
2931 34 00 --	Sodium 3-(trihydroxysilyl)propyl methylphosphonate	kg.	10%	-
2931 35 00 --	2, 4, 6-tripropyl-1, 3, 5, 2, 4, 6-trioxatriphosphinane 2, 4, 6-trioxide	kg.	10%	-
2931 36 00 --	(5-E-methyl-2-oxido-1, 3, 2-dioxaphosphinan-5-yl)methyl methylphosphonate	kg.	10%	-
2931 37 00 --	Is[(5-ethyl-2-methyl-2-oxido-1, 3, 2-dioxaphosphinan-5-yl)methyl] methylphosphonate	kg.	10%	-
2931 38 00 --	Salt of methylphosphonic acid and (aminoiminomethyl)urea (1: 1)	kg.	10%	-
2931 39 00 --	Other	kg.	10%	-";
(xvi) after tariff item 2932 13 00 and the entries relating thereto, the following shall be inserted, namely:—				
"2932 14 00 --	Sucralose	kg.	10%	-";



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)

(xvii) after tariff item 2933 91 00 and the entries relating thereto, the following shall be inserted, namely:—

"2933 92 00 -- Azinphos-methyl (ISO) kg. 10% -";

(xviii) for heading 2935, sub-heading 2935 00, tariff items 2935 00 11 to 2935 00 90 and the entries relating thereto, the following shall be substituted, namely:—

"2935	SULPHONAMIDES			
2935 10 00	- N-Methylperfluorooctane sulphonamide	kg.	10%	-
2935 20 00	- N-Ethylperfluorooctane sulphonamide	kg.	10%	-
2935 30 00	- N-Ethyl-N-(2-hydroxyethyl) perfluorooctane sulphonamide	kg.	10%	-
2935 40 00	- N-(2-Hydroxyethyl)-N-methylperfluorooctane sulphonamide	kg.	10%	-
2935 50 00	- Other perfluorooctane sulphonamides	kg.	10%	-
2935 90	- Other:			
	--- Sulphamethoxazole, sulphafurazole, sulphadiazine, sulphadimidine, sulphacetamide:			
2935 90 11	---- Sulphamethoxazole	kg.	10%	-
2935 90 12	---- Sulphafurazole	kg.	10%	-
2935 90 13	---- Sulphadiazine	kg.	10%	-
2935 90 14	---- Sulphadimidine	kg.	10%	-
2935 90 15	---- Sulphacetamide	kg.	10%	-
	--- Sulphamethoxypyridarine, sulphamethiazole, sulphamoxole, sulphamide:			
2935 90 21	---- Sulphamethoxypyridarine	kg.	10%	-
2935 90 22	---- Sulphamethiazole	kg.	10%	-
2935 90 23	---- Sulphamoxole	kg.	10%	-
2935 90 24	---- Sulphamide	kg.	10%	-
2935 90 90	--- Other	kg.	10%	-";

(xix) for the tariff item 2937 31 00 and the entries relating thereto, the following shall be substituted, namely:—

"2937 31 00 -- Epinephrine kg. 10% 10%";

(xx) in the entry under column (2) occurring after tariff item 2937 90 90 and the entries relating thereto, the word "VEGETABLE" shall be omitted;

(xxi) for heading 2939 and the entries relating thereto, the following shall be substituted, namely:—

"2939. ALKALOIDS, NATURAL OR REPRODUCED BY SYNTHESIS, AND THEIR SALTS, ETHERS, ESTERS AND OTHER DERIVATIVES";

(xxii) for tariff items 2939 69 00 to 2939 99 00 and the entries relating thereto, the following shall be substituted, namely:—

"2939 69 00	-- Other	kg.	10%	-
	- Other, of vegetal origin:			
2939 71 00	-- Cocaine, ecgonine, levometamfetamine, metamfetamine (INN), metamfetamine racemate; salts, esters and other derivatives thereof	kg.	10%	-
2939 79 00	-- Other	kg.	10%	-



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)

2939 80 00	- Other	kg.	10%	-";
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(15) in Chapter 30,—

(i) after Note 4, the following shall be inserted, namely:—

“Sub-heading Notes:

1. For the purposes of sub-headings 3002 13 and 3002 14, the following are to be treated:

(a) as unmixed products, pure products, whether or not containing impurities;

(b) as products which have been mixed:

(1) the products mentioned in (a) above dissolved in water or in other solvents;

(2) the products mentioned in (a) and (b) (1) above with an added stabiliser necessary for their preservation or transport; and

(3) the products mentioned in (a), (b) (1) and (b) (2) above with any other additive.

2. Sub-headings 3003 60 and 3004 60 cover medicaments containing artemisinin (INN) for oral ingestion combined with other pharmaceutical active ingredients, or containing any of the following active principles, whether or not combined with other pharmaceutical active ingredients: amodiaquine (INN); artelnic acid or its salts; arteminol (INN); artemether (INN); artesunate (INN); chloroquine (INN); dihydroartemisinin (INN); lumefantrine (INN); mefloquine (INN); piperaquine (INN); pyrimethamine (INN) or sulfadoxine (INN).”

(ii) for sub-heading 3002 10, tariff items 3002 10 11 to 3002 10 99 and the entries relating thereto, the following shall be substituted, namely:—

“ - *Antisera, other blood fractions and immunological products, whether or not modified or obtained by biotechnological processes:*

3002 11 00	--	Malaria diagnostic test kits	kg.	10%	10%
3002 12	--	<i>Antisera and other blood fractions:</i>			
3002 12 10	---	For diphtheria	kg.	10%	10%
3002 12 20	---	For tetanus	kg.	10%	10%
3002 12 30	---	For rabies	kg.	10%	10%
3002 12 40	---	For snake venom	kg.	10%	10%
3002 12 90	---	Other	kg.	10%	10%
3002 13	--	<i>Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale:</i>			
3002 13 10	---	Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale	kg.	10%	10%
3002 14	--	<i>Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale:</i>			
3002 14 10	---	Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale	kg.	10%	10%
3002 15 00	--	Immunological products, put up in measured doses or in forms or packings for retail sale	kg.	10%	10%
3002 19 00	--	Other	kg.	10%	10%";

(iii) for tariff items 3003 20 00 to 3003 40 00 and the entries relating thereto, the following shall be substituted, namely:—

“3003 20 00	-	Other, containing antibiotics	kg.	10%	10%
	-	<i>Other, containing hormones or other products of heading 2937:</i>			
3003 31 00	--	Containing insulin	kg.	10%	10%



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
3003 39 00	-- Other	kg.	10%	10%
-	<i>Other, containing alkaloids or derivatives thereof:</i>			
3003 41 00	-- Containing ephedrine or its salts	kg.	10%	10%
3003 42 00	-- Containing pseudoephedrine (INN) or its salts	kg.	10%	10%
3003 43 00	-- Containing norephedrine or its salts	kg.	10%	10%
3003 49 00	-- Other	kg.	10%	10%
3003 60 00	- Other, containing antimalarial active principles described in Sub-heading Note 2 to this Chapter	kg.	10%	10%";

(iv) in heading 3004,—

(a) for sub-heading 3004 20 and the entries relating thereto, the following shall be substituted, namely:—

"3004 20 -- *Other, containing antibiotics.*";

(b) for tariff item 3004 20 99; sub-heading 3004 31 and the entries relating thereto, the following shall be substituted, namely:—

"3004 20 99 --- Other kg. 10% 10%

- *Other, containing hormones and other products of heading 2937:*

3004 31 -- *Containing insulin.*";

(c) for sub-heading 3004 40, tariff items 3004 40 10 to 3004 40 90 and the entries relating thereto, the following shall be substituted, namely:—

"- *Other, containing alkaloids or derivatives thereof:*

3004 41 00 -- Containing ephedrine or its salts kg. 10% 10%

3004 42 00 -- Containing pseudoephedrine (INN) or its salts kg. 10% 10%

3004 43 00 -- Containing norephedrine or its salts kg. 10% 10%

3004 49 --- *Other:*

3004 49 10 --- Atropin and salts thereof kg. 10% 10%

3004 49 20 --- Caffein and salts thereof kg. 10% 10%

3004 49 30 --- Codeine and derivatives, with or without ephedrine hydrochloride kg. 10% 10%

3004 49 40 --- Ergot preparations, ergotamine and salts thereof kg. 10% 10%

3004 49 50 --- Papavarine hydrochloride kg. 10% 10%

3004 49 60 --- Bromohexin and solbutamol kg. 10% 10%

3004 49 70 --- Theophylline and salts thereof kg. 10% 10%

3004 49 90 --- Other kg. 10% 10%";

(d) for sub-heading 3004 50 and the entries relating thereto, the following shall be substituted, namely:—

"3004 50 - *Other, containing vitamins or other products of heading 2936.*";

(e) after tariff item 3004 50 90 and the entries relating thereto, the following shall be inserted, namely:—

"3004 60 00 - Other, containing antimalarial active principles described in Sub-heading Note 2 to this Chapter kg. 10% 10%";

(16) in Chapter 31, in heading 3103, for tariff item 3103 10 00 and the entries relating thereto, the following shall be substituted, namely:—

"- *Superphosphates:*



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
3103 11 00 --	Containing by weight 35 % or more of diphosphorus pentaoxide (P <sub>2</sub> O <sub>5</sub> )	kg.	10%	-
3103 19 00 --	Other	kg.	10%	-";

(17) in Chapter 37, in heading 3705, for tariff item 3705 10 00, sub-heading 3705 90, tariff items 3705 90 10 and 3705 90 90 and the entries relating thereto, the following shall be substituted, namely:—

"3705 00 00 -	<b>PHOTOGRAPHIC PLATES AND FILM, EXPOSED AND DEVELOPED, OTHER THAN CINEMATOGRAPHIC FILM</b>	kg.	10%	-";
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(18) in Chapter 38,—

(i) for Sub-heading Notes 1 and 2, the following shall be substituted, namely:—

Sub-heading Notes:

1. Sub-headings 3808 52 and 3808 59 cover only goods of heading 3808, containing one or more of the following substances: alachlor (ISO); aldicarb (ISO); aldrin (ISO); azinphos-methyl (ISO); binapacryl (ISO); camphechlor (ISO) (toxaphene); captafol (ISO); chlordane (ISO); chlordimeform (ISO); chlorobenzilate (ISO); DDT (ISO) (clofenotane (INN), 1, 1, 1-trichloro-2, 2-bis(p-chlorophenyl)ethane); dieldrin (ISO, INN); 4, 6- dinitro-o-cresol (DNOC (ISO)) or its salts; dinoseb (ISO), its salts or its esters; endosulfan (ISO); ethylene dibromide (ISO) (1, 2-dibromoethane); ethylene dichloride (ISO) (1, 2-dichloroethane); fluoroacetamide (ISO); heptachlor (ISO); hexachlorobenzene (ISO); 1, 2, 3, 4, 5, 6- hexachlorocyclohexane (HCH (ISO)), including lindane (ISO, INN); mercury compounds; methamidophos (ISO); monocrotophos (ISO); oxirane (ethylene oxide); parathion (ISO); parathion-methyl (ISO) (methylparathion); penta- and octabromodiphenyl ethers; pentachlorophenol (ISO), its salts or its esters; perfluorooctane sulphonamic acid and its salts; perfluorooctane sulphonamides; perfluorooctane sulphonyl fluoride; phosphamidon (ISO); 2, 4, 5-T (ISO) (2, 4, 5-trichlorophenoxyacetic acid), its salts or its esters; tributyltin compounds.

Sub-heading 3808 59 also covers dustable powder formulations containing a mixture of benomyl (ISO), carbofuran (ISO) and thiram (ISO).

2. Sub-headings 3808 61 to 3808 69 cover only goods of heading 3808, containing alpha-cypermethrin (ISO), bendiocarb (ISO), bifenthrin (ISO), chlorfenapyr (ISO), cyfluthrin (ISO), deltamethrin (INN, ISO), etofenprox (INN), fenitrothion (ISO), lambda-cyhalothrin (ISO), malathion (ISO), pirimiphos-methyl (ISO) or propoxur (ISO).

3. Sub-headings 3824 81 to 3824 88 cover only mixtures and preparations containing one or more of the following substances: oxirane (ethylene oxide), polybrominated biphenyls (PBBs), polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs), tris(2, 3-dibromopropyl) phosphate, aldrin (ISO), camphechlor (ISO) (toxaphene), chlordane (ISO), chlordecone (ISO), DDT (ISO) (clofenotane (INN), 1, 1, 1-trichloro-2, 2-bis(pchlorophenyl)ethane), dieldrin (ISO, INN), endosulfan (ISO), endrin (ISO), heptachlor (ISO), mirex (ISO), 1, 2, 3, 4, 5, 6-hexachlorocyclohexane (HCH (ISO)), including lindane (ISO, INN), pentachlorobenzene (ISO), hexachlorobenzene (ISO), perfluorooctane sulphonamic acid, its salts, perfluorooctane sulphonamides, perfluorooctane sulphonyl fluoride or tetra-, penta-, hexa-, hepta- or octabromodiphenyl ethers.

4. For the purposes of tariff items 3825 41 00 and 3825 49 00, "waste organic solvents" are wastes containing mainly organic solvents, not fit for further use as presented as primary products, whether or not intended for recovery of solvents.;

(ii) for sub-heading 3808 50 and tariff item 3808 50 00 and the entries relating thereto, the following shall be substituted, namely:—

<i>Goods specified in Sub-heading Note 1 to this Chapter:</i>				
3808 52 00 --	DDT (ISO) (clofenotane (INN)), in packings of a net weight content not exceeding 300 g.	kg.	10%	-
3808 59 00 --	Other	kg.	10%	-
<i>Goods specified in Sub-heading Note 2 to this Chapter:</i>				
3808 61 00 --	In packings of a net weight content not exceeding 300 g	kg.	10%	-
3808 62 00 --	In packings of a net weight content exceeding 300 g but not exceeding 7.5 kg.	kg.	10%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
3808 69 00	--	Other	kg.	10%	-";
(iii) for sub-heading 3812 30 and tariff items 3812 30 10 to 3812 30 90 and the entries relating thereto, the following shall be substituted, namely:—					
	--	<i>Anti-oxidising preparations and other compound stabilizers for rubber or plastics:</i>			
3812 31 00	--	Mixtures of oligomers of 2, 2, 4-trimethyl-1, 2-dihydroquinoline (TMQ)	kg.	10%	-
3812 39	--	<i>Other:</i>			
3812 39 10	---	Anti-oxidants for rubber	kg.	10%	-
3812 39 20	---	Softeners for rubber	kg.	10%	-
3812 39 30	---	Vulcanizing agents for rubber	kg.	10%	-
3812 39 90	---	Other	kg.	10%	-";
(iv) for tariff items 3824 79 00 to 3824 83 00, sub-heading 3824 90, tariff items 3824 90 11 to 3824 90 90 and the entries relating thereto, the following shall be substituted, namely:—					
3824 79 00	--	Other	kg.	10%	-
	--	<i>Goods specified in Sub-heading Note 3 to this Chapter:</i>			
3824 81 00	--	Containing oxirane (ethylene oxide)	kg.	10%	-
3824 82 00	--	Containing polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) or polybrominated biphenyls (PBBs)	kg.	10%	-
3824 83 00	--	Containing tris(2, 3-dibromopropyl) phosphate	kg.	10%	-
3824 84 00	--	Containing aldrin (ISO), camphechlor (ISO) (toxaphene), chlordane (ISO), chlordecone (ISO), DDT (ISO) (clofenotane INN), 1, 1, 1-trichloro-2, 2-bis(p-chlorophenylethane), dieldrin (ISO, INN), endosulfan (ISO), endrin (ISO), heptachlor (ISO) or mirex (ISO)	kg.	10%	-
3824 85 00	--	Containing 1, 2, 3, 4, 5, 6-hexachlorocyclohexane (HCH (ISO)), including lindane (ISO, INN)	kg.	10%	-
3824 86 00	--	Containing pentachlorobenzene (ISO) or hexachlorobenzene (ISO)	kg.	10%	-
3824 87 00	--	Containing perfluorooctane sulphonic acid, its salts, perfluorooctane sulphonamides, or perfluorooctane sulphonyl fluoride	kg.	10%	-
3824 88 00	--	Containing tetra-, penta-, hexa- hepta- or octabromodiphenyl ethers	kg.	10%	-
3824 91 00	--	Mixtures and preparations consisting mainly of (5-ethyl-2-methyl-2-oxido-1, 3, 2-dioxaphosphinan-5-yl)methyl methyl methylphosphonate and bis[(5-ethyl-2-methyl-2-oxido-1, 3, 2- dioxaphosphinan-5-yl) methyl] methylphosphonate:			
3824 99	--	<i>Other:</i>			
	---	<i>Ammoniacal gas liquors and spent oxide produced in coal gas purification, case hardening compound, heat transfer salts; mixture of diphenyl and diphenyl oxide as heat transfer medium, mixed polyethylene glycols; salts for curing or salting, surface tension reducing agents:</i>			
3824 99 11	----	Ammoniacal gas liquors and spent oxide produced in coal gas purification	kg.	10%	-
3824 99 12	----	Case hardening compound	kg.	10%	-
3824 99 13	----	Heat transfer salts	kg.	10%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
3824 99 14	----	Mixture of diphenyl and diphenyl oxide as heat transfer medium	kg.	10%	-
3824 99 15	----	Mixed polyethylene glycols	kg.	10%	-
3824 99 16	----	Salts for curing or salting	kg.	10%	-
3824 99 17	----	Surface tension reducing agents	kg.	10%	-
	---	<i>Electroplating salts; water treatment chemicals; ion exchanger, correcting fluid; precipitated silica and silica gel; oil well chemical.</i>			
3824 99 21	----	Electroplating salts	kg.	10%	-
3824 99 22	----	Water treatment chemicals; ion exchanger (INN) such as permutits, zero-lites	kg.	10%	-
3824 99 23	----	Gramophone records making material	kg.	10%	-
3824 99 24	----	Correcting fluid	kg.	10%	-
3824 99 25	----	Precipitated silica and silica gel	kg.	10%	-
3824 99 26	----	Oil well chemical	kg.	10%	-
	---	<i>Mixture containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens other than chlorine and fluorine; ferrite powder; capacitor fluids - PCB type; dipping oil for treatment of grapes; Poly brominated biphenyls; poly chlorinated biphenyls, Poly chlorinated terphenyls, crocidolite; goods of a kind known as "hazardous waste"; phosphogypsum.</i>			
3824 99 31	----	Mixture containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens other than chlorine and fluorine	kg.	10%	-
3824 99 32	----	Ferrite powder	kg.	10%	-
3824 99 33	----	Capacitor fluids - PCB type	kg.	10%	-
3824 99 34	----	Dipping oil for treatment of grapes	kg.	10%	-
3824 99 35	----	Poly brominated biphenyls, poly chlorinated biphenyls, Poly chlorinated terphenyls, crocidolite	kg.	10%	-
3824 99 36	----	Goods of a kind known as "hazardous waste"	kg.	10%	-
3824 99 37	----	Phosphogypsum	kg.	10%	-
3824 99 38	----	Phosphonic Acid, Methyl-compound with (aminoimino methyl) urea (1:1)	kg.	10%	-
3824 99 90	---	Other	kg.	10%	-";

(19) in Chapter 39,—

(i) in Note 2, in clause (z), after the words "propelling pencils", the words " , and monopods, bipods, tripods and similar articles" shall be inserted;

(ii) in Sub-heading Note 1, in clause (a), in sub-clause (2), after the figures "3901 30," the figures "3901 40," shall be inserted;

(iii) in heading 3901, after tariff item 3901 30 00 and the entries relating thereto, the following shall be inserted, namely:—

"3901 40 00	-	Ethylene-alpha-olefin copolymers, having a specific gravity of less than 0.94	kg.	10%	-";
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(iv) in heading 3907, for sub-heading 3907 60 and tariff items 3907 60 10 to 3907 60 90 and the entries relating thereto, the following shall be substituted, namely:—

" - Poly(ethylene terephthalate):



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
3907 61 00	--	Having a viscosity number of 78 ml/g or higher	kg.	10%	-
3907 69	--	<i>Other:</i>			
3907 69 10	---	Having a viscosity number less than 78 ml/g but not less than 72 ml/g	kg.	10%	-
3907 69 20	---	Having a viscosity number less than 72 ml/g but not less than 64 ml/g	kg.	10%	-
3907 69 90	---	Other	kg.	10%	-";

(v) for sub-heading 3909 30 and tariff items 3909 30 10 to 3909 30 90 and the entries relating thereto, the following shall be substituted namely:—

	--	<i>Other amino-resins:</i>			
3909 31 00	--	Poly(methylene phenyl isocyanate) (crude MDI, polymeric MDI)	kg.	10%	-
3909 39	--	<i>Other:</i>			
3909 39 10	---	Poly(phenylene oxide)	kg.	10%	-
3909 39 90	---	Other	kg.	10%	-";

(20) in Chapter 40, in heading 4011, for tariff items 4011 50 90 to 4011 99 00 and the entries relating thereto, the following shall be substituted, namely:—

"4011 50 90	---	Other	u	10%	-
4011 70 00	-	Of a kind used on agricultural or forestry vehicles and machines	u	10%	-
4011 80 00	-	Of a kind used on construction, mining or industrial handling vehicles and machines	u	10%	-
4011 90 00	-	Other	u	10%	-";

(21) in Chapter 42,—

(i) in heading 4202,—

(a) for sub-heading 4202 22 and the entries relating thereto, the following shall be substituted, namely:—

"4202 22 -- *With outer surface of sheeting of plastics or of textile materials: "*

(b) for sub-heading 4202 32 and the entries relating thereto, the following shall be substituted, namely:—

"4202 32 -- *With outer surface of sheeting of plastics or of textile materials: "*

(c) for tariff item 4202 92 00 and the entries relating thereto, the following shall be substituted, namely:—

"4202 92 00 -- With outer surface of sheeting of plastics or of textile materials u 10% -";

(22) in Chapter 44,—

(i) in Note 1, in clause (g), for the word "pencils", the words "pencils, and monopods, bipods, tripods and similar articles" shall be substituted;

(ii) the Sub-heading Note 2 shall be omitted;

(iii) in heading 4401,—

(a) for sub-heading 4401 10, tariff items 4401 10 10, 4401 10 90 and the entries relating thereto, the following shall be substituted namely:—

	--	<i>Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms:</i>			
4401 11	--	<i>Coniferous:</i>			
4401 11 10	---	In logs	mt	5%	-
4401 11 90	---	Other	mt	5%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
401 12	--	<i>Non-coniferous:</i>			
401 12 10	---	In logs	mt	5%	-
401 12 90	---	Other	mt	5%	-";
(b) for tariff items 4401 22 00 and 4401 31 00 and the entries relating thereto, the following shall be substituted, namely:—					
4401 22 00	--	Non-coniferous	mt	5%	-
	-	<i>Sawdust and wood waste and scrap, agglomerated, in logs, briquettes, pellets or similar forms:</i>			
4401 31 00	--	Wood pellets	mt	5%	-";
(c) after tariff item 4401 39 00 and the entries relating thereto, the following shall be inserted, namely:—					
4401 40 00	-	Sawdust and wood waste and scrap, not agglomerated	mt	5%	-";
(iv) in heading 4403,—					
(a) for tariff item 4403 10 00, sub-heading 4403 20 and tariff items 4403 20 10 to 4403 41 00 and the entries relating thereto, the following shall be substituted, namely:—					
	--	<i>Treated with paint, stains, creosote or other preservatives:</i>			
1403 11 00	--	Coniferous	m <sup>3</sup>	5%	-
1403 12 00	--	Non-coniferous	m <sup>3</sup>	5%	-
	-	<i>Other, coniferous:</i>			
1403 21	--	<i>Of pine (Pinus spp.), of which any cross-sectional dimension is 15 cm or more:</i>			
1403 21 10	---	Saw logs and veneer logs	m <sup>3</sup>	5%	-
1403 21 20	---	Poles, pilings and posts	m <sup>3</sup>	5%	-
4403 21 90	---	Other	m <sup>3</sup>	5%	-
4403 22	--	<i>Of pine (Pinus spp.), other:</i>			
4403 22 10	---	Saw logs and veneer logs	m <sup>3</sup>	5%	-
4403 22 20	---	Poles, pilings and posts	m <sup>3</sup>	5%	-
4403 22 90	---	Other	m <sup>3</sup>	5%	-
4403 23	--	<i>Of fir (Abies spp.) and spruce (Picea spp.), of which any cross-sectional dimension is 15 cm or more:</i>			
4403 23 10	---	Saw logs and veneer logs	m <sup>3</sup>	5%	-
4403 23 20	---	Poles, pilings and posts	m <sup>3</sup>	5%	-
4403 23 90	---	Other	m <sup>3</sup>	5%	-
4403 24	--	<i>Of fir (Abies spp.) and spruce (Picea spp.), other:</i>			
4403 24 10	---	Saw logs and veneer logs	m <sup>3</sup>	5%	-
4403 24 20	---	Poles, pilings and posts	m <sup>3</sup>	5%	-
4403 24 90	---	Other	m <sup>3</sup>	5%	-
4403 25	--	<i>Other, of which any cross-sectional dimension is 15 cm or more:</i>			
4403 25 10	---	Saw logs and veneer logs	m <sup>3</sup>	5%	-
4403 25 20	---	Poles, pilings and posts	m <sup>3</sup>	5%	-
4403 25 90	---	Other	m <sup>3</sup>	5%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
4403 26	--	<i>Other:</i>			
4403 26 10	---	Saw logs and veneer logs	m <sup>3</sup>	5%	-
4403 26 20	---	Poles, pilings and posts	m <sup>3</sup>	5%	-
4403 26 90	---	Other	m <sup>3</sup>	5%	-
-	-	<i>Other, of tropical wood:</i>			
4403 41 00	--	Dark red meranti, light red meranti and meranti bakau	m <sup>3</sup>	5%	-";
(b) for tariff item 4403 92 00 and the entries relating thereto, the following shall be substituted, namely:—					
"4403 93 00	--	Of beech ( <i>Fagus spp.</i> ), of which any cross-sectional dimension is 15 cm or more	m <sup>3</sup>	5%	-
4403 94 00	--	Of beech ( <i>Fagus spp.</i> ), other	m <sup>3</sup>	5%	-
4403 95 00	--	Of birch ( <i>Betula spp.</i> ), of which any cross-sectional dimension is 15 cm or more	m <sup>3</sup>	5%	-
4403 96 00	--	Of birch ( <i>Betula spp.</i> ), other	m <sup>3</sup>	5%	-
4403 97 00	--	Of poplar and aspen ( <i>Populus spp.</i> )	m <sup>3</sup>	5%	-
4403 98 00	--	Of eucalyptus ( <i>Eucalyptus spp.</i> )	m <sup>3</sup>	5%	-";
(c) for tariff item 4403 99 19 to 4403 99 21 and the entries relating thereto, the following shall be substituted, namely:—					
"4403 99 19	----	Rose Wood ( <i>Dalbergia Latifolia</i> )	m <sup>3</sup>	5%	-
-	---	<i>Sal (Chorea robusta), Sandalwood (Santalum album), Semul (Bombax ceiba), Walnut wood (Juglans binata), Anjam (Hardwickia binata), Sisso (Dalbergia sisso) and White cedar (Dysozylum spp.) and the like:</i>			
4403 99 21	----	<i>Sal (Chorea robusta)</i>	m <sup>3</sup>	5%	-";
(d) the tariff item 4403 99 26 and the entries relating thereto shall be omitted;					
(e) for tariff item 4403 99 29 and the entries relating thereto, the following shall be substituted, namely:—					
"4403 99 90	---	Other	m <sup>3</sup>	5%	-";
(v) in heading 4406, for tariff items 4406 10 00 and 4406 90 00 and the entries relating thereto, the following shall be substituted, namely:—					
-	-	<i>Not impregnated:</i>			
4406 11 00	--	Coniferous	kg.	10%	-
4406 12 00	--	Non-coniferous	kg.	10%	-
-	-	<i>Other:</i>			
4406 91 00	--	Coniferous	kg.	10%	-
4406 92 00	--	Non-coniferous	kg.	10%	-";
(vi) in heading 4407,—					
(a) for sub-heading 4407 10, tariff items 4407 10 10 to 4407 21 00 and the entries relating thereto, the following shall be substituted, namely:—					
-	-	<i>Coniferous:</i>			
4407 11 00	--	Of pine ( <i>Pinus spp.</i> )	m <sup>3</sup>	10%	-
4407 12 00	--	Of fir ( <i>Abies spp.</i> ) and Spruce ( <i>Picea spp.</i> )	m <sup>3</sup>	10%	-
4407 19	--	<i>Other:</i>			



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
407 19 10	--- Douglas fir ( <i>Pseudotsuga menziesii</i> )	m <sup>3</sup>	10%	-
407 19 90	--- Other	m <sup>3</sup>	10%	-
-	Of tropical wood:			
407 21 00	-- Mahogany ( <i>Swietenia</i> spp.)	m <sup>3</sup>	10%	-";
(b) after tariff item 4407 95 00 and the entries relating thereto, the following shall be inserted, namely:—				
4407 96 00	-- Of birch ( <i>Betula</i> spp.)	m <sup>3</sup>	10%	-
4407 97 00	-- Of poplar and aspen ( <i>Populus</i> spp.)	m <sup>3</sup>	10%	-";
(c) tariff item 4407 99 10 and the entries relating thereto shall be omitted;				
(vii) in heading 4408,—				
(a) for tariff item 4408 10 90 to sub-heading 4408 31, and the entries relating thereto, the following shall be substituted, namely:—				
4408 10 90	--- Other	kg	10%	-
-	Of tropical wood:			
4408 31	-- Of Dark red meranti, Light red meranti, Meranti bakau:";			
(b) after tariff item 4409 21 00 and the entries relating thereto, the following shall be inserted, namely:—				
4409 22 00	-- Of tropical wood	kg	10%	-";
(viii) in heading 4412,—				
(a) for sub-heading 4412 31 and the entries relating thereto, the following shall be substituted, namely:—				
4412 31	-- With at least one outer ply of tropical wood:";			
(b) for sub-heading 4412 32, tariff items 4412 32 10 to 4412 32 90, sub-heading 4412 39, tariff items 4412 39 10 to 4412 39 90 and the entries relating thereto, the following shall be substituted, namely:—				
4412 33	-- Other, with at least one outer ply of non-coniferous wood of the species alder ( <i>Alnus</i> spp.), ash ( <i>Fraxinus</i> spp.), beech ( <i>Fagus</i> spp.), birch ( <i>Betula</i> spp.), cherry ( <i>Prunus</i> spp.), chestnut ( <i>Castanea</i> spp.), elm ( <i>Ulmus</i> spp.), eucalyptus ( <i>Eucalyptus</i> spp.), hickory ( <i>Carya</i> spp.), horse chestnut ( <i>Aesculus</i> spp.), lime ( <i>Tilia</i> spp.), maple ( <i>Acer</i> spp.), oak ( <i>Quercus</i> spp.), plane tree ( <i>Platanus</i> spp.), poplar and aspen ( <i>Populus</i> spp.), robinia ( <i>Robinia</i> spp.), tulipwood ( <i>Liriodendron</i> spp.) or walnut ( <i>Juglans</i> spp.):			
4412 33 10	--- Decorative plywood	m <sup>3</sup>	10%	-
4412 33 20	--- Tea chest panels, shooks whether or not packed in sets	m <sup>3</sup>	10%	-
4412 33 30	--- Marine and aircraft plywood	m <sup>3</sup>	10%	-
4412 33 40	--- Cutting and trimmings of plywood of width not exceeding 5 cm	m <sup>3</sup>	10%	-
4412 33 90	--- Other	m <sup>3</sup>	10%	-
4412 34	-- Other, with at least one outer ply of non-coniferous wood not specified under sub-heading 4412 33:			
4412 34 10	--- Decorative plywood	m <sup>3</sup>	10%	-
4412 34 20	--- Tea chest panels, shooks whether or not packed in sets	m <sup>3</sup>	10%	-
4412 34 30	--- Marine and aircraft plywood	m <sup>3</sup>	10%	-
4412 34 40	--- Cutting and trimmings of plywood of width not exceeding 5 cm	m <sup>3</sup>	10%	-
4412 34 90	--- Other	m <sup>3</sup>	10%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
4412 39	--	<i>Other, with both outer plies of coniferous wood:</i>			
4412 39 10	---	Decorative plywood	m <sup>3</sup>	10%	-
4412 39 20	---	Tea chest panels, shooks whether or not packed in sets	m <sup>3</sup>	10%	-
4412 39 30	---	Marine and aircraft plywood	m <sup>3</sup>	10%	-
4412 39 40	---	Cutting and trimmings of plywood of width not exceeding 5 cm	m <sup>3</sup>	10%	-
4412 39 90	---	Other	m <sup>3</sup>	10%	-";

(ix) in heading 4418, for tariff items 4418 71 00 to 4418 90 00 and the entries relating thereto, the following shall be substituted, namely:—

	--	<i>Assembled flooring panels:</i>			
4418 73 00	--	Of bamboo or with at least the top layer (wear layer) of bamboo	kg.	10%	-
4418 74 00	--	Other, for mosaic floors	kg.	10%	-
4418 75 00	--	Other, multilayer	kg.	10%	-
4418 79 00	--	Other	kg.	10%	-
	--	<i>Other:</i>			
4418 91 00	--	Of bamboo	kg.	10%	-
4418 99 00	--	Other	kg.	10%	-";

(x) for heading 4419, sub-heading 4419 00, tariff items 4419 00 10 and 4419 00 20 and the entries relating thereto, the following shall be substituted, namely:—

4419		<b>TABLEWARE AND KITCHENWARE, OF WOOD</b>			
	--	<i>Of bamboo:</i>			
4419 11 00	--	Bread boards, chopping boards and similar boards	kg.	10%	-
4419 12 00	--	Chopsticks	kg.	10%	-
4419 19 00	--	Other	kg.	10%	-
4419 90	--	<i>Other:</i>			
4419 90 10	---	Bread boards, chopping boards and similar boards	kg.	10%	-
4419 90 20	---	Chopsticks	kg.	10%	-
4419 90 90	---	Other	kg.	10%	-";

(xi) in heading 4421, for sub-heading 4421 90, tariff items 4421 90 11 to 4421 90 90 and the entries relating thereto, the following shall be substituted, namely:—

	--	<i>Other:</i>			
4421 91	--	<i>Of bamboo:</i>			
	---	<i>Spools, cops, bobbins, sewing thread reels and the like of turned wood:</i>			
4421 91 11	----	For cotton machinery	kg.	10%	-
4422 91 12	----	For jute machinery	kg.	10%	-
4423 91 13	----	For silk regenerated and synthetic fibre machinery	kg.	10%	-
4424 91 14	----	For other machinery	kg.	10%	-
4421 91 19	----	Other	kg.	10%	-
4421 91 20	---	Wood Paving Blocks	kg.	10%	-
4421 91 30	---	Match splints	kg.	10%	-



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
4421 91 40	--- Pencil slats	kg.	10%	-
4421 91 50	--- Parts of wood, namely oars, paddles and rudders for ships, boats and other similar floating structures	kg.	10%	-
4421 91 60	--- Parts of domestic decorative articles used as tableware and kitchenware	kg.	10%	-
4421 91 70	--- Articles of densified wood not included or specified elsewhere	kg.	10%	-
4421 91 90	--- Other	kg.	10%	-
4421 99	-- <i>Other:</i>			
	--- <i>Spools, cops, bobbins, sewing thread reels and the like of turned wood:</i>			
4421 99 11	---- For cotton machinery	kg.	10%	-
4421 99 12	---- For jute machinery	kg.	10%	-
4421 99 13	---- For silk regenerated and synthetic fibre machinery	kg.	10%	-
4421 99 14	---- For other machinery	kg.	10%	-
4421 99 19	---- Other	kg.	10%	-
4421 99 20	--- Wood Paving Blocks	kg.	10%	-
4421 99 30	--- Match splints	kg.	10%	-
4421 99 40	--- Pencil slats	kg.	10%	-
4421 99 50	--- Parts of wood, namely oars, paddles and rudders for ships, boats and other similar floating structures	kg.	10%	-
4421 99 60	--- Parts of domestic decorative articles used as tableware and kitchenware	kg.	10%	-
4421 99 70	--- Articles of densified wood not included or specified elsewhere	kg.	10%	-
4421 99 90	--- Other	kg.	10%	-";

(23) in Chapter 48,—

(i) in Note 4, after the words, figures and letters "more than 65 g/m<sup>2</sup>", the words, brackets, figures and letters", and apply only to paper: (a) in strips or rolls of a width exceeding 28 cm; or (b) in rectangular (including square) sheets with one side exceeding 28 cm and the other side exceeding 15 cm in the unfolded state" shall be inserted;

(ii) in Note 8, the figures and word "4801, and" shall be omitted;

(24) in Chapter 54,—

(i) in heading 5402, for the entry in column (2) occurring after the entry against the heading 5402, the following entry shall be substituted, namely:—

" - *High tenacity yarn of nylon or other polyamides, whether or not textured.*";

(ii) for sub-heading 5402 20 and the entries relating thereto, the following shall be substituted, namely:—

"5402 20 -- *High tenacity yarn of polyesters, whether or not textured.*";

(iii) after tariff item 5402 52 00 and the entries relating thereto, the following shall be inserted, namely:—

"5402 53 00 -- Of polypropylene kg. 10% -";

(iv) after tariff item 5402 62 00 and the entries relating thereto, the following shall be inserted, namely:—

"5402 63 00 -- Of polypropylene kg. 10% -";

(25) in Chapter 55,—

(i) for heading 5502, sub-heading 5502 00, tariff items 5502 10 00 to 5502 90 00 and the entries relating thereto, the following shall be substituted, namely:—



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
"5502	<b>ARTIFICIAL FILAMENT TOW</b>			
5502 10	-- <i>Of cellulose acetate:</i>			
5502 10 10	--- Viscose rayon tow	kg.	10%	-
5502 10 90	--- Other	kg.	10%	-
5502 90	-- <i>Other:</i>			
5502 90 10	--- Viscose rayon tow	kg.	10%	-
5502 90 90	--- Other	kg.	10%	-";
(ii) after tariff item 5506 30 00 and the entries relating thereto, the following shall be inserted, namely:—				
"5506 40 00	- Of polypropylene	kg.	10%	-";
(26) in Chapter 56, for heading 5601, sub-heading 5601 21 and the entries relating thereto, the following shall be substituted, namely:—				
"5601	<b>WADDING OF TEXTILE MATERIALS AND ARTICLES THEREOF; TEXTILE FIBRES, NOT EXCEEDING 5 MM IN LENGTH (FLOCK), TEXTILE DUST AND MILL NEPS</b>			
-	<i>Wadding of textile materials and articles thereof:</i>			
5601 21	-- <i>Of cotton: "</i>			
(27) in Chapter 57, in heading 5704, after tariff item 5704 10 00 and the entries relating thereto, the following shall be inserted, namely:—				
"5704 20	- <i>Tiles, having a maximum surface area exceeding 0.3 m<sup>2</sup> but not exceeding 1 m<sup>2</sup>:</i>			
5704 20 10	--- Cotton	m <sup>2</sup>	10% or Rs.35 per sq. metre, whichever is higher	-
5704 20 20	--- Woollen, other than artware	m <sup>2</sup>	10% or Rs.35 per sq. metre, whichever is higher	-
5704 20 90	--- Other	m <sup>2</sup>	10% or Rs.35 per sq. metre, whichever is higher	-";

(28) in Chapter 60,—

(i) after Note 3, the following shall be inserted, namely:—

"Sub-heading Note:

Sub-heading 6005 35 covers fabrics of polyethylene monofilament or of polyester multifilament, weighing not less than 30 g/m<sup>2</sup> and not more than 55 g/m<sup>2</sup>, having a mesh size of not less than 20 holes/cm<sup>2</sup> and not more than 100 holes/cm<sup>2</sup>, and impregnated or coated with alpha-cypermethrin (ISO), chlorfenapyr (ISO), deltamethrin (INN, ISO), lambda-cyhalothrin (ISO), permethrin (ISO) or pirimiphos-methyl (ISO).";

(ii) for tariff items 6005 31 00 to 6005 34 00 and the entries relating thereto, the following shall be substituted, namely:—

"6005 35 00	--	Fabrics specified in Sub-heading Note 1 to this Chapter	kg.	10%	-
6005 36 00	--	Other, unbleached or bleached	kg.	10%	-



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
6005 37 00 --	Other, dyed	kg.	10%	-
6005 38 00 --	Other, of yarns of different colours	kg.	10%	-
6005 39 00 --	Other, printed	kg.	10%	“-”;

(29) in Chapter 63,—

(i) after Note 3, the following shall be inserted, namely:—

“Sub-heading Note:

Sub-heading 6304 20 covers articles made from fabrics, impregnated or coated with alpha-cypermethrin (ISO), chlorfenapyr (ISO), deltamethrin (INN, ISO), lambda-cyhalothrin (ISO), permethrin (ISO) or pirimiphosmethyl (ISO).”;

(ii) in heading 6304, after tariff item 6304 19 90 and the entries relating thereto, the following shall be inserted, namely:—

“6304 20 00 -	Bed nets, of warp knit fabrics specified in Sub-heading Note 1 to this Chapter	u	10%	“-”;
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(30) in Chapter 68, in Note 1, for clause (m), the following clause shall be substituted, namely:—

“(m) articles of heading 9602, if made of materials specified in Note 2 (b) to Chapter 96, or of heading 9606 (for example, buttons), of heading 9609 (for example, slate pencils), heading 9610 (for example, drawing slates) or of heading 9620 (monopods, bipods, tripods and similar articles); or”;

(31) in Chapter 69,—

(i) for heading 6907, sub-heading 6907 10, tariff items 6907 10 10 and 6907 10 90, sub-heading 6907 90, tariff items 6907 90 10 and 6907 90 90 and the entries relating thereto, the following shall be substituted, namely:—

“6907	<b>CERAMIC FLAGS AND PAVING, HEARTH OR WALL TILES; CERAMIC MOSAIC CUBES AND THE LIKE, WHETHER OR NOT ON A BACKING; FINISHING CERAMICS</b>			
-	<i>Flags and paving, hearth or wall tiles, other than those of sub-headings 6907 30 and 6907 40:</i>			
6907 21 00 --	Of a water absorption coefficient by weight not exceeding 0.5%	m <sup>2</sup>	10%	-
6907 22 00 --	Of a water absorption coefficient by weight exceeding 0.5% but not exceeding 10%	m <sup>2</sup>	10%	-
6907 23 00 --	Of a water absorption coefficient by weight exceeding 10%	m <sup>2</sup>	10%	-
6907 30 -	<i>Mosaic cubes and the like, other than those of sub-heading 6907 40:</i>			
6907 30 10 ---	Mosaic cubes and the like, other than those of sub-heading 6907 40	m <sup>2</sup>	10%	-
6907 40 -	<i>Finishing ceramics:</i>			
6907 40 10 ---	Finishing ceramics	m <sup>2</sup>	10%	“-”;

(ii) the heading 6908, sub-heading 6908 10, tariff items 6908 10 10 to 6908 10 90, sub-heading 6908 90 and tariff items 6908 90 10 to 6908 90 90 and the entries relating thereto shall be omitted;

(32) in Section XV, in Note 1, for clause (m), the following clause shall be substituted, namely:—

“(m) hand sieves, buttons, pens, pencil-holders, pen nibs, monopods, bipods, tripods and similar articles or other articles of Chapter 96 (miscellaneous manufactured articles); or”;

(33) in Chapter 74, in Note 1, for clause (c), the following clause shall be substituted, namely:—

“(c) *Master alloys*  
Alloys containing with other elements more than 10 per cent. by weight, of copper not usefully malleable and commonly used as an additive in the manufacture of other alloys or as de-oxidants, de-sulphuring agents



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)

or for similar uses in the metallurgy of non-ferrous metals. However, copper phosphide (phosphor copper) containing more than 15% by weight of phosphorous falls in heading 2853.”;

(34) in Chapter 82, for the entry in column (2) occurring against the heading 8205, for the words “MACHINE TOOLS”, the words “MACHINE-TOOLS OR WATER-JET CUTTING MACHINES” shall be substituted;

(35) in Chapter 83, for the entry occurring against heading 8308, the following shall be substituted, namely:—

“8308

**CLASPS, FRAMES WITH CLASPS, BUCKLES, BUCKLE-CLASPS, HOOKS, EYES, EYELETS AND THE LIKE, OF BASE METAL, OF A KIND USED FOR CLOTHING OR CLOTHING ACCESSORIES, FOOTWEAR, JEWELLERY, WRIST WATCHES, BOOKS, AWNINGS, LEATHER GOODS, TRAVEL GOODS OR SADDLERY OR FOR OTHER MADE UP ARTICLES; TUBULAR OR BIFURCATED RIVETS, OF BASE METAL; BEADS AND SPANGLES, OF BASE METAL”;**

(36) in Section XVI, in Note 1, for clause (q), the following clause shall be substituted, namely:—

“(q) typewriter or similar ribbons, whether or not on spools or in cartridges (classified according to their constituent material, or in heading 9612 if inked or otherwise prepared for giving impressions), or monopods, bipods, tripods and similar articles, of heading 9620.”;

(37) in Chapter 84,—

(i) in Note 1,—

(A) in clause (f), the word “or” shall be omitted;

(B) after clause (f), the following clause shall be inserted, namely:—

“(g) radiators for the articles of Section XVII; or”;

(C) the existing clause (g) shall be re-lettered as (h);

(ii) in Note 2, in clause (e), for the words “machinery or plant”, the words “machinery, plant or laboratory equipment” shall be substituted;

(iii) in Note 9, for clause (A), the following clause shall be substituted, namely:—

“(A) Notes 9 (a) and 9 (b) to Chapter 85 also apply with respect to the expressions “semiconductor devices” and “electronic integrated circuits”, respectively, as used in this Note and in heading 8486. However, for the purposes of this Note and of heading 8486, the expression “semiconductor devices” also covers photosensitive semiconductor devices and light-emitting diodes (LED).”;

(iv) in Sub-heading Notes,—

(A) the following new Sub-heading Note 1 shall be inserted, namely:—

“1. For the purposes of sub-heading 8465 20, the term “machining centres” applies only to machine-tools for working wood, cork, bone, hard rubber, hard plastics or similar hard materials, which can carry out different types of machining operations by automatic tool change from a magazine or the like in conformity with a machining programme.”;

(B) the existing Sub-heading Note 1 shall be re-numbered as Sub-heading Note 2 and after Sub-heading Note 2 as so re-numbered, the following Sub-heading Note shall be inserted, namely:—

“3. For the purposes of sub-heading 8481 20, the expression “valves for oleohydraulic or pneumatic transmissions” means valves which are used specifically in the transmission of “fluid power” in a hydraulic or pneumatic system, where the energy source is supplied in the form of pressurised fluids (liquid or gas). These valves may be of any type (for example, pressure-reducing type, check type). Sub-heading 8481 20 takes precedence over all other sub-headings of heading 8481.”;

(C) the existing Sub-heading Note 2 shall be re-numbered as Sub-heading Note 4;

(v) in heading 8415, for sub-heading 8415 10 and the entries relating thereto, the following shall be substituted, namely:—



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)

\*8415 10 - *Of a kind designed to be fixed to a window, wall, ceiling or floor, self-contained or "split-system";*

(vi) in heading 8424,—

(a) after tariff item 8424 30 00 and the entries relating thereto, the following shall be inserted, namely:—

“- *Agricultural or horticultural sprayers:*

8424 41 00	--	Portable sprayers	u	7.5%	-
8424 49 00	--	Other	u	7.5%	“-”;

(b) for tariff item 8424 81 00 and the entries relating thereto, the following shall be substituted, namely:—

*8424 82 00	--	Agricultural or horticultural	u	7.5%	“-”;
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(vii) in heading 8432,—

(a) for tariff item 8432 30 00 and the entries relating thereto, the following shall be substituted, namely:—

“- *Seeders, planters and transplanters:*

8432 31 00	--	No-till direct seeders, planters and transplanters	u	7.5%	-
8432 39 00	--	Other	u	7.5%	“-”;

(b) for tariff item 8432 40 00 and the entries relating thereto, the following shall be substituted, namely:—

“- *Manure spreaders and fertiliser distributors:*

8432 41 00	--	Manure spreaders	u	7.5%	-
8432 42 00	--	Fertiliser distributors	u	7.5%	“-”;

(viii) for heading 8442 and the entries relating thereto, the following shall be substituted, namely:—

\*8442 **MACHINERY, APPARATUS AND EQUIPMENT (OTHER THAN THE MACHINES OF HEADINGS 8456 TO 8465) FOR PREPARING OR MAKING PLATES, PRINTING COMPONENTS, PLATES, CYLINDERS AND LITHOGRAPHIC STONES, PREPARED FOR PRINTING PURPOSES (FOR EXAMPLE, PLANED, GRAINED OR POLISHED);**

(ix) in heading 8456,—

(a) for tariff item 8456 10 00 and the entries relating thereto, the following shall be substituted, namely:—

“- *Operated by laser or other light or photon beam processes:*

8456 11 00	--	Operated by laser	u	7.5%	-
8456 12 00	--	Operated by other light or photon beam processes	u	7.5%	“-”;

(b) after tariff item 8456 30 00 and the entries relating thereto, the following shall be inserted, namely:—

*8456 40 00	-	Operated by plasma arc processes	u	7.5%	-
8456 50 00	-	Water-jet cutting machines	u	7.5%	“-”;

(x) for sub-heading 8459 40, tariff items 8459 40 10 to 8459 40 90 and the entries relating thereto, the following shall be substituted, namely:—

“- *Other boring machines:*

8459 41	--	<i>Numerically controlled:</i>			
8459 41 10	---	Jig boring machines, horizontal	u	7.5%	-
8459 41 20	---	Fine boring machines, horizontal	u	7.5%	-
8459 41 30	---	Fine boring machines, vertical	u	7.5%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
8459 41 90	---	Other	u	7.5%	-
8459 49	--	<i>Other:</i>			
8459 49 10	---	Jig boring machines, horizontal	u	7.5%	-
8459 49 20	---	Fine boring machines, horizontal	u	7.5%	-
8459 49 30	---	Fine boring machines, vertical	u	7.5%	-
8459 49 90	---	Other	u	7.5%	-";

(xi) for heading 8460, tariff items 8460 11 00 to 8460 21 00, sub-heading 8460 29, tariff items 8460 29 10 to 8460 29 90 and the entries relating thereto, the following shall be substituted, namely:—

"8460		<b>MACHINE-TOOLS FOR DEBURRING, SHARPENING, GRINDING, HONING, LAPPING, POLISHING OR OTHERWISE FINISHING METAL, OR CERMETS BY MEANS OF GRINDING STONES, ABRASIVES OR POLISHING PRODUCTS, OTHER THAN GEAR CUTTING, GEAR GRINDING OR GEAR FINISHING MACHINES OF HEADING 8461</b>			
	-	<i>Flat-surface grinding machines:</i>			
8460 12 00	--	Numerically controlled	u	7.5%	-
8460 19 00	--	Other	u	7.5%	-
	-	<i>Other grinding machines:</i>			
8460 22 00	--	Centreless grinding machines, numerically controlled	u	7.5%	-
8460 23 00	--	Other cylindrical grinding machines, numerically controlled	u	7.5%	-
8460 24 00	--	Other, numerically controlled	u	7.5%	-
8460 29	--	<i>Other:</i>			
8460 29 10	---	Cylindrical grinders	u	7.5%	-
8460 29 20	---	Internal grinders	u	7.5%	-
8460 29 30	---	Centreless grinders	u	7.5%	-
8460 29 40	---	Profile grinders	u	7.5%	-
8460 29 90	---	Other	u	7.5%	-";

(xii) after tariff item 8465 10 00 and the entries relating thereto, the following shall be inserted, namely:—

"8465 20 00	-	Machining centres	u	7.5%	-";
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(xiii) in heading 8466,—

(a) for heading 8466, and the entries relating thereto, the following shall be substituted, namely:—

"8466		<b>PARTS AND ACCESSORIES SUITABLE FOR USE SOLELY OR PRINCIPALLY WITH THE MACHINES OF HEADINGS 8456 TO 8465 INCLUDING WORK OR TOOL HOLDERS, SELF-OPENING DIEHEADS, DIVIDING HEADS AND OTHER SPECIAL ATTACHMENTS FOR THE MACHINES; TOOL HOLDERS FOR ANY TYPE OF TOOL, FOR WORKING IN THE HAND";</b>			
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(b) for sub-heading 8466 30 and the entries relating thereto, the following shall be substituted, namely:—

"8466 30	-	<i>Dividing heads and other special attachments for machines: "</i>			
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(xiv) the heading 8469, sub-heading 8469 00, tariff items 8469 00 10 to 8469 00 90 and the entries relating thereto shall be omitted,

(xv) in heading 8472, for tariff item 8472 90 90 and the entries relating thereto the following shall be substituted, namely:—



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
	<i>Other:</i>			
8472 90 91	Word-processing machines	u	free	-
8472 90 92	Automatic typewriters	u	10%	-
8472 90 93	Braille typewriters, electric	u	7.5%	-
8472 90 94	Braille typewriters, non-electric	u	7.5%	-
8472 90 95	Other typewriters, electric or non-electric	u	10%	-
8472 90 99	Other	u	7.5%	-";

(xvi) in heading 8473,—

(a) for heading 8473 and the entries relating thereto, the following shall be substituted, namely:—

"8473

**PARTS AND ACCESSORIES (OTHER THAN COVERS,  
CARRYING CASES AND THE LIKE) SUITABLE FOR USE  
SOLELY OR PRINCIPALLY WITH MACHINES OF HEADINGS  
8470 TO 8472";**

(b) the tariff item 8473 10 00 and the entries relating thereto shall be omitted;

(c) for tariff item 8473 50 00 and the entries relating thereto, the following shall be substituted, namely:—

"8473 50 00	Parts and accessories equally suitable for use with the machines of two or more of the headings 8470 to 8472	u	free	-";
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(38) in Chapter 85,—

(i) in the Notes, after Note 2, the following shall be inserted, namely:—

'3. For the purposes of heading 8507, the expression "electric accumulators" includes those presented with ancillary components which contribute to the accumulator's function of storing and supplying energy or protect it from damage, such as electrical connectors, temperature control devices (for example, thermistors) and circuit protection devices. They may also include a portion of the protective housing of the goods in which they are to be used.'

(ii) the existing Notes 3, 4, 5, 6, 7, 8 and 9 shall respectively be re-numbered as 4, 5, 6, 7, 8, 9 and 10;

(iii) in Note 9 as so re-numbered, in clause (b), after sub-clause (iii), the following new sub-clause shall be inserted, namely:—

'(iv) Multi-component integrated circuits (MCOs): a combination of one or more monolithic, hybrid, or multi-chip integrated circuits with at least one of the following components: silicon-based sensors, actuators, oscillators, resonators or combinations thereof, or components performing the functions of articles classifiable under headings 8532, 8533, 8541, or inductors classifiable under heading 8504, formed to all intents and purposes indivisibly into a single body like an integrated circuit, as a component of a kind used for assembly onto a printed circuit board (PCB) or other carrier, through the connecting of pins, leads, balls, lands, bumps, or pads.

For the purpose of this definition:

(1) "Components" may be discrete, manufactured independently then assembled onto the rest of the MCO, or integrated into other components.

(2) "Silicon based" means built on a silicon substrate, or made of silicon materials, or manufactured onto integrated circuit die.

(3) (a) "Silicon based sensors" consist of microelectronic or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of detecting physical or chemical quantities and transducing these into electric signals, caused by resulting variations in electric properties or displacement of a mechanical structure. "Physical or chemical quantities" relates to real world phenomena, such as pressure, acoustic waves, acceleration, vibration, movement, orientation, strain, magnetic field strength, electric field strength, light, radioactivity, humidity, flow, chemicals concentration, etc.

(b) "Silicon based actuators" consist of microelectronic and mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of converting electrical signals into physical movement.

(c) "Silicon based resonators" are components that consist of microelectronic or mechanical structures that are created in the mass or on the surface of a semiconductor and have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures in response to an external input.



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)

(d) "Silicon based oscillators" are active components that consist of microelectronic or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures.;

(iv) in heading 8528, for tariff items 8528 41 00 to 8528 69 00 and the entries relating thereto, the following shall be substituted, namely:—

"8528 42 00	--	Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471	u	10%	-
8528 49 00	--	Other	u	10%	-
	-	Other monitors:			
8528 52 00	--	Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471	u	10%	-
8528 59 00	--	Other	u	10%	-
	-	Projectors:			
8528 62 00	--	Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471	u	10%	-
8528 69 00	--	Other	u	10%	-";

(v) for tariff item 8531 20 00 and the entries relating thereto, the following shall be substituted, namely:—

"8531 20 00	-	Indicator panels incorporating liquid crystal devices (LCD) or light-emitting diodes (LED)	u	Free	-";
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(vi) in heading 8539,—

(a) for heading 8539 and the entries relating thereto, the following shall be substituted, namely:—

"8539		<b>ELECTRIC FILAMENT OR DISCHARGE LAMPS INCLUDING SEALED BEAM LAMP UNITS AND ULTRA-VIOLET OR INFRARED LAMPS; LIGHT-EMITTING DIODE (LED) LAMPS";</b>
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(b) after tariff item 8539 49 00 and the entries relating thereto, the following shall be inserted, namely:—

"8539 50 00	-	Light-emitting diode (LED) lamps	u	10%	-";
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(vii) in heading 8541,—

(a) for heading 8541 and the entries relating thereto, the following shall be substituted, namely:—

"8541		<b>DIODES, TRANSISTORS AND SIMILAR SEMI-CONDUCTOR DEVICES; PHOTSENSITIVE SEMI-CONDUCTOR DEVICES; INCLUDING PHOTO VOLTAIC CELLS, WHETHER OR NOT ASSEMBLED IN MODULES OR MADE UP INTO PANELS; LIGHT-EMITTING DIODES (LED); MOUNTED PIEZO-ELECTRIC CRYSTALS";</b>
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(b) for tariff item 8541 10 00 and the entries relating thereto, the following shall be substituted, namely:—

"8541 10 00	-	Diodes, other than photosensitive or light-emitting diodes (LED)	u	Free	-";
-------------	---	--	---	------	-----

(c) for sub-heading 8541 40 and the entries relating thereto, the following shall be substituted, namely:—

"8541 40	-	<i>Photosensitive semi-conductor devices, including photo voltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED).";</i>
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(39) in Section XVII, in Note 2, for clause (e), the following clause shall be substituted, namely:—



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)

“(e) machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483;”;

(40) in Chapter 87,—

(i) in heading 8701,—

(a) for tariff item 8701 10 00, the following shall be substituted, namely:—

“8701 10 00 - Single axle tractors u 10% -”;

(b) for sub-heading 8701 90, tariff items 8701 90 10 and 8701 90 90 and the entries relating thereto, the following shall be substituted, namely:—

“ -	Other, of an engine power:			
8701 91 00 --	Not exceeding 18 kW	u	10%	-
8701 92 00 --	Exceeding 18 kW but not exceeding 37 kW	u	10%	-
8701 93 00 --	Exceeding 37 kW but not exceeding 75 kW	u	10%	-
8701 94 00 --	Exceeding 75 kW but not exceeding 130 kW	u	10%	-
8701 95 00 --	Exceeding 130 kW	u	10%	-”;

(ii) in heading 8702, for sub-heading 8702 10, tariff items 8702 10 11 to 8702 10 99, sub-heading 8702 90, tariff items 8702 90 11 to 8702 90 99, the following shall be substituted, namely:—

“8702 10 -	With only compression-ignition internal combustion piston engine (diesel or semi-diesel):			
----	Vehicles for transport of not more than 13 persons, including the driver:			
8702 10 11 ----	Integrated monocoque vehicle, air-conditioned	u	40%	-
8702 10 12 ----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 10 18 ----	Other, air-conditioned	u	40%	-
8702 10 19 ----	Other, non air-conditioned	u	40%	-
---	Other:			
8702 10 21 ----	Integrated monocoque vehicle, air-conditioned	u	40%	-
8702 10 22 ----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 10 28 ----	Other, air-conditioned	u	40%	-
8702 10 29 ----	Other, non air-conditioned	u	40%	-
8702 20 -	With both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion:			
---	Vehicles for transport of not more than 13 persons, including the driver:			
8702 20 11 ----	Integrated monocoque vehicle, air-conditioned	u	40%	-
8702 20 12 ----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 20 18 ----	Other, air-conditioned	u	40%	-
8702 20 19 ----	Other, non air-conditioned	u	40%	-
---	Other:			
8702 20 21 ----	Integrated monocoque vehicle, air-conditioned	u	40%	-



Tariff Item		Description of goods	Unit	Rate of Duty	
(1)				Standard	Preferential
8702 20 22	----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 20 28	----	Other, air-conditioned	u	40%	-
8702 20 29	----	Other, non air-conditioned	u	40%	-
8702 30	-	<i>With both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion:</i>			
	---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>			
8702 30 11	----	Integrated monocoque vehicle, air-conditioned	u	40%	-
8702 30 12	----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 30 18	----	Other, air-conditioned	u	40%	-
8702 30 19	----	Other, non air-conditioned	u	40%	-
	---	<i>Other:</i>			
8702 30 21	----	Integrated monocoque vehicle, air-conditioned	u	40%	-
8702 30 22	----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 30 28	----	Other, air-conditioned	u	40%	-
8702 30 29	----	Other, non air-conditioned	u	40%	-
8702 40	-	<i>With only electric motor for propulsion:</i>			
	---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>			
8702 40 11	----	Integrated monocoque vehicle, air-conditioned	u	40%	-
8702 40 12	----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 40 18	----	Other, air-conditioned	u	40%	-
8702 40 19	----	Other, non air-conditioned	u	40%	-
	---	<i>Other:</i>			
8702 40 21	----	Integrated monocoque vehicle, air-conditioned	u	40%	-
8702 40 22	----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 40 28	----	Other, air-conditioned	u	40%	-
8702 40 29	----	Other, non air-conditioned	u	40%	-
8702 90	-	<i>Other:</i>			
	---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>			
8702 90 11	----	Integrated monocoque vehicle, air-conditioned	u	40%	-
8702 90 12	----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 90 18	----	Other, air-conditioned	u	40%	-
8702 90 19	----	Other, non air-conditioned	u	40%	-
	---	<i>Other:</i>			
8702 90 21	----	Integrated monocoque vehicle, air-conditioned	u	40%	-
8702 90 22	----	Integrated monocoque vehicle, non air-conditioned	u	40%	-
8702 90 28	----	Other, air-conditioned	u	40%	-



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
8702 90 29	Other, non air-conditioned	u	40%	-;
(iii) in heading 8703,—				
(a) in the entry in column (2) occurring after tariff item 8703 10 90 and the entries relating thereto, after the word “with”, the word “only” shall be inserted;				
(b) in the entry in column (2) occurring after tariff item 8703 24 99 and the entries relating thereto, for the words “with compression ignition” the words “with only compression-ignition” shall be substituted;				
(c) the tariff items 8703 31 20 and 8703 32 20 and the entries relating thereto shall be omitted;				
(d) after tariff item 8703 33 99 and the entries relating thereto, the following shall be inserted, namely:—				
“8703 40	-	<i>Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power:</i>		
8703 40 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	125%
8703 40 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	125%
8703 40 30	---	Motor cars	u	125%
8703 40 40	---	Three-wheeled vehicles	u	125%
8703 40 90	---	Other	u	125%
8703 50	-	<i>Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power:</i>		
8703 50 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	125%
8703 50 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	125%
8703 50 30	---	Motor cars	u	125%
8703 50 40	---	Three-wheeled vehicles	u	125%
8703 50 90	---	Other	u	125%
8703 60	-	<i>Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power:</i>		
8703 60 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	125%
8703 60 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	125%
8703 60 30	---	Motor cars	u	125%
8703 60 40	---	Three-wheeled vehicles	u	125%
8703 60 90	---	Other	u	125%
8703 70	-	<i>Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power:</i>		



Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential
(1)		(2)	(3)	(4)	(5)
8703 70 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	125%	-
8703 70 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	125%	-
8703 70 30	---	Motor cars	u	125%	-
8703 70 40	---	Three-wheeled vehicles	u	125%	-
8703 70 90	---	Other	u	125%	-
8703 80	-	<i>Other vehicles, with only electric motor for propulsion:</i>			
8703 80 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	125%	-
8703 80 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	125%	-
8703 80 30	---	Motor cars	u	125%	-
8703 80 40	---	Three-wheeled vehicles	u	125%	-
8703 80 90	---	Other	u	125%	-";

(e) for sub-heading 8703 90, tariff items 8703 90 10 and 8703 90 90 and the entries relating thereto, the following shall be substituted, namely:—

"8703 90 00	-	Other	u	125%	-";
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(iv) in heading 8711,—

(a) after tariff item 8711 50 00 and the entries relating thereto, the following shall be inserted, namely:—

"8711 60	-	<i>With electric motor for propulsion:</i>			
8711 60 10	---	Motor cycles	u	100%	-
8711 60 20	---	Scooters	u	100%	-
8711 60 30	---	Mopeds	u	100%	-
8711 60 90	---	Others	u	100%	-";

(b) for sub-heading 8711 90, tariff items 8711 90 10 to 8711 90 99 and the entries relating thereto, the following shall be substituted, namely:—

"8711 90	-	<i>Other:</i>			
8711 90 10	---	Side cars	u	100%	-
8711 90 90	---	Other	u	100%	-";

(41) in Chapter 90,—

(i) in Note 1,—

(A) in clause (g), after the word "machine-tools", the words "or water-jet cutting machines" shall be inserted;

(B) after clause (k), the following clause shall be inserted, namely:—

"(l) monopods, bipods, tripods and similar articles, of heading 9620";

(C) the existing clauses (l) and (m) shall respectively be re-lettered as (m) and (n);

(ii) in heading 9006, the tariff item 9006 10 00 and the entries relating thereto shall be omitted;

(42) in Chapter 92, in Note 1, for clause (d), the following clause shall be substituted, namely:—

"(d) brushes for cleaning musical instruments (heading 9603), or monopods, bipods, tripods and similar articles (heading 9620); or";



Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
(43) in Chapter 94,—				
(i) in Note 1,—				
(A) in clause (k), the word “or” shall be omitted;				
(B) in clause (l), the word “or” shall be inserted at the end;				
(C) after clause (l), the following clause shall be inserted, namely:—				
“(m) monopods, bipods, tripods and similar articles (heading 9620).”;				
(ii) for tariff item 9401 51 00 and the entries relating thereto, the following shall be substituted, namely:—				
401 52 00	-- Of bamboo	u	10%	-
01 53 00	-- Of rattan	u	10%	-”;
(iii) for tariff item 9403 81 00 and the entries relating thereto, the following shall be substituted, namely:—				
401 82 00	-- Of bamboo	u	10%	-
01 83 00	-- Of rattan	u	10%	-”;
(iv) for heading 9406, sub-heading 9406 00, tariff items 9406 00 11 to 9406 00 99 and the entries relating thereto, the following shall be substituted, namely:—				
406	<b>PREFABRICATED BUILDINGS</b>			
06 10	<i>Of wood:</i>			
06 10 10	--- Green-houses	u	10%	-
06 10 20	--- For cold storage	u	10%	-
06 10 30	--- Silos for storing ensilage	u	10%	-
06 10 90	--- Other	u	10%	-
06 90	<i>Other:</i>			
06 90 10	--- Green-houses	u	10%	-
06 90 20	--- For cold storage	u	10%	-
06 90 30	--- Silos for storing ensilage	u	10%	-
06 90 90	--- Other	u	10%	-”;
(44) in Chapter 95,—				
(i) in Note 1,—				
(A) for clause (e), the following clause shall be substituted, namely:—				
“(e) fancy dress of textiles, of Chapter 61 or 62; sports clothing and special articles of apparel of textiles, of Chapter 61 or 62, whether or not incorporating incidentally protective components such as pads or padding in the elbow, knee or groin areas (for example, fencing clothing or soccer goalkeeper jerseys);”;				
(B) after clause (r), the following clause shall be inserted, namely:—				
“(u) monopods, bipods, tripods and similar articles (heading 9620).”;				
(C) the existing clauses (u) and (v) shall respectively be re-lettered as (v) and (w);				
(45) in Chapter 96, after tariff item 9619 00 90 and the entries relating thereto, the following shall be inserted, namely:—				
9620 00 00	-	<b>MONOPODS, BIPODS, TRIPODS AND SIMILAR ARTICLES</b>	u	10% -”.



## THE FIFTH SCHEDULE

[See section 145 (i)]

In the Third Schedule to the Central Excise Act,—

(a) for S. Nos. 40 and 41 and the entries relating thereto, the following S. Nos. and entries shall be substituted, namely:—

S. No.	Heading, sub-heading or tariff items	Description of goods
(1)	(2)	(3)
"40.	3401	All goods
41.	3402	All goods";

(b) after S. No. 63 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:—

S. No.	Heading, sub-heading or tariff items	Description of goods
(1)	(2)	(3)
"63A.	7607	All goods";

(c) after S. No. 81C and the entries relating thereto, the following S. No. and entries shall be inserted, namely:—

S. No.	Heading, sub-heading or tariff items	Description of goods
(1)	(2)	(3)
"81D.	8517 62	Wrist wearable devices (commonly known as smart watches)";

(d) against S.No. 100, in column (3), for the words "Parts, components and assemblies", the words "Parts, components, accessories and assemblies" shall be substituted;

(e) against S.No. 100A, in column (3), for the words "Parts, components and assemblies", the words "Parts, components, accessories and assemblies" shall be substituted.



## THE SIXTH SCHEDULE

[See section 145(ii)]

in the Third Schedule to the Central Excise Act,—

- (a) against S. No. 58, for the entry in column (3), the entry “vitrified tiles, whether polished or not, glazed tiles” shall be substituted;
- (b) S. No. 59 and the entries relating thereto shall be omitted.



## THE SEVENTH SCHEDULE

[See section 146 (i)]

In the First Schedule to the Central Excise Tariff Act,—

(a) in Chapter 22, for the entries in column (4) occurring against tariff items 2202 10 10, 2202 10 20 and 2202 10 90, the entry “21%” shall be substituted;

(b) in Chapter 24,—

(i) for the entries in column (4) occurring against tariff items 2401 10 10, 2401 10 20, 2401 10 30, 2401 10 40, 2401 10 50, 2401 10 60, 2401 10 70, 2401 10 80, 2401 10 90, 2401 20 10, 2401 20 20, 2401 20 30, 2401 20 40, 2401 20 50, 2401 20 60, 2401 20 70, 2401 20 80 and 2401 20 90, the entry “64%” shall be substituted;

(ii) for the entry in column (4) occurring against tariff items 2402 10 10 and 2402 10 20, the entry “12.5% or Rs. 3755 per thousand whichever is higher” shall be substituted;

(iii) for the entry in column (4) occurring against tariff item 2402 90 10, the entry “Rs. 3755 per thousand” shall be substituted;

(iv) for the entry in column (4) occurring against tariff items 2402 90 20 and 2402 90 90, the entry “12.5% or Rs. 3755 per thousand, whichever is higher” shall be substituted;

(v) for the entries in column (4) occurring against tariff items 2403 19 29, the entry “Rs. 80 per thousand” shall be substituted;

(vi) for the entries in column (4) occurring against tariff items 2403 99 10, 2403 99 30 and 2403 99 90, the entry “81%” shall be substituted.

(c) in Chapter 27, in the Supplementary Note,—

(i) in clause (e), for the figures “1460:2000”, the figures “1460:2005” shall be substituted;

(ii) in clause (f), for the figures “1460”, the figures “15770:2008” shall be substituted;

(d) in Chapter 58, in heading 5801,—

(i) in sub-heading 5801 37, the entry in column (2) “--- Warp pile fabrics, ‘epingle’ (uncut):” shall be omitted;

(ii) for tariff items 5801 37 11 and 5801 37 19 and the entries relating thereto, the following shall be substituted, namely:—

(1)	(2)	(3)	(4)
“5801 37 10	--- Warp pile fabrics, uncut	m <sup>2</sup>	12.5%”;

(e) in Chapter 71, in heading 7104, for the tariff item 7104 90 00 and the entries relating thereto, the following shall be substituted, namely:—

(1)	(2)	(3)	(4)
“7104 90	- Other:		
7104 90 10	--- Laboratory-created or laboratory grown or manmade or cultured or synthetic diamonds	ct/k	12.5%
7104 90 90	--- Other	kg.	12.5%”;

(f) in Chapter 85, in heading 8525, the tariff item 8525 50 50 and the entries relating thereto shall be omitted.



## THE EIGHTH SCHEDULE

[See section 146 (ii)]

Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

In the First Schedule to the Central Excise Tariff Act, 1985,—

(I) in Chapter 3,—

(i) in Note 1, in clause (c), for the words “livers and roes”, the words “livers, roes and milt” shall be substituted;

(ii) in heading 0301, for tariff item 0301 93 00 and the entries relating thereto, the following shall be substituted, namely:—

“0301 93 00	--	Carp ( <i>Cyprinus spp.</i> , <i>Carassius spp.</i> , <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys spp.</i> , <i>Cirrhinus spp.</i> , <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo spp.</i> , <i>Osteochilus hasselti</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama spp.</i> )	kg.	Nil”;
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(iii) for heading 0302, tariff items 0302 11 00 to 0302 85 00, sub-heading 0302 89, tariff items 0302 89 10 to 0302 90 00 and the entries relating thereto, the following shall be substituted, namely:—

“0302		<b>FISH, FRESH OR CHILLED, EXCLUDING FISH FILLETS AND OTHER FISH MEAT OF HEADING 0304</b>		
	-	<i>Salmonidae</i> , excluding edible fish offal of sub-headings 0302 91 to 0302 99:		
0302 11 00	--	Trout ( <i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarkii</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i> , <i>Oncorhynchus apache</i> and <i>Oncorhynchus chrysogaster</i> )	kg.	Nil
0302 13 00	--	Pacific salmon ( <i>Oncorhynchus nerka</i> , <i>Oncorhynchus gorbuscha</i> , <i>Oncorhynchus keta</i> , <i>Oncorhynchus tshawytscha</i> , <i>Oncorhynchus kisutch</i> , <i>Oncorhynchus masou</i> and <i>Oncorhynchus rhodurus</i> )	kg.	Nil
0302 14 00	--	Atlantic salmon ( <i>Salmo salar</i> ) and Danube salmon ( <i>Hucho hucho</i> )	kg.	Nil
0302 19 00	--	Other	kg.	Nil
	-	<i>Flat fish (Pleuronectidae, Bothidae, Cynoglossidae, Soleidae, Scophthalmidae and Citharidae)</i> , excluding edible fish offal of sub-headings 0302 91 to 0301 99:		
0302 21 00	--	Halibut ( <i>Rheinhardtius hippoglossidae</i> , <i>Hippoglossus hippoglossus</i> , <i>Hippoglossus stenolepis</i> )	kg.	Nil
0302 22 00	--	Plaice ( <i>Pleuronectes platessa</i> )	kg.	Nil
0302 23 00	--	Sole ( <i>Solea spp.</i> )	kg.	Nil
0302 24 00	--	Turbots ( <i>Psetta maxima</i> )	kg.	Nil
0302 29 00	--	Other	kg.	Nil
	-	<i>Tunas (of the genus Thunnus)</i> , skipjack or stripe-bellied bonito ( <i>Euthynnus (Katsuwonus) pelamis</i> ), excluding edible fish offal of sub-headings 0302 91 to 0301 99:		
0302 31 00	--	Albacore or long finned tunas ( <i>Thunnus alalunga</i> )	kg.	Nil
0302 32 00	--	Yellowfin tunas ( <i>Thunnus albacares</i> )	kg.	Nil
0302 33 00	--	Skipjack or stripe-bellied bonito	kg.	Nil
0302 34 00	--	Bigeye tunas ( <i>Thunnus obesus</i> )	kg.	Nil
0302 35 00	--	Atlantic and Pacific bluefin tunas ( <i>Thunnus thynnus</i> , <i>Thunnus orientalis</i> )	kg.	Nil
0302 36 00	--	Southern bluefin tunas ( <i>Thunnus maccoyii</i> )	kg.	Nil
0302 39 00	--	Other	kg.	Nil



Tariff Item		Description of goods	Unit	Rate of Duty
(1)		(2)	(3)	(4)
-		<i>Herrings (Clupea harengus, Clupea pallasii), anchovies (Engraulis spp.), sardines (Sardina pilchardus, Sardinops spp.), sardinella (Sardinella spp.), brisling or sprats (Sprattus sprattus), mackerel (Scomber scombrus, Scomber australasicus, Scomber japonicus), Indian mackerels (Rastrelliger spp.), seerfishes (Scomberomorus spp.), jack and horse mackerel (Trachurus spp.), jacks, crevalles (Caranx spp.), cobia (Rachycentron canadum), silver pomfrets (Pampus spp.), Pacific saury (Cololabis saira), scads (Decapterus spp.), capelin (Mallotus villosus), Sword fish (Xiphias gladius), Kawakawa (Euthynnus affinis), bonitos (Sarda spp.), marlins, sailfishes, spearfish (Istiophoridae), excluding edible fish offal of sub-headings 0302 91 to 0302 99:</i>		
0302 41 00	--	Herrings ( <i>Clupea harengus, Clupea pallasii</i> )	kg.	Nil
0302 42 00	--	Anchovies ( <i>Engraulis spp.</i> )	kg.	Nil
0302 43 00	--	Sardines ( <i>Sardina pilchardus, Sardinops spp.</i> ), sardinella ( <i>Sardinella spp.</i> ), brisling or sprats ( <i>Sprattus sprattus</i> )	kg.	Nil
0302 44 00	--	Mackerel ( <i>Scomber scombrus, Scomber australasicus, Scomber japonicus</i> )	kg.	Nil
0302 45 00	--	Jack and horse mackerel ( <i>Trachurus spp.</i> )	kg.	Nil
0302 46 00	--	Cobia ( <i>Rachycentron canadum</i> )	kg.	Nil
0302 47 00	--	Sword fish ( <i>Xiphias gladius</i> )	kg.	Nil
0302 49 00	--	Other	kg.	Nil
-		<i>Fish of the families Bregmaceroideae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae, excluding edible fish offal of sub-headings 0302 91 to 0302 99:</i>		
0302 51 00	--	Cod ( <i>Gadus morhua, Gadus ogac, Gadus macrocephalus</i> )	kg.	Nil
0302 52 00	--	Haddock ( <i>Melanogrammus aeglefinus</i> )	kg.	Nil
0302 53 00	--	Coel fish ( <i>Pollachinus virens</i> )	kg.	Nil
0302 54 00	--	Hake ( <i>Merluccius spp., Urophycis spp.</i> )	kg.	Nil
0302 55 00	--	Alaska Pollack ( <i>Theragra chalcogramma</i> )	kg.	Nil
0302 56 00	--	Blue whittings ( <i>Micromesistius poutassou, Micromesistius australis</i> )	kg.	Nil
0302 59 00	--	Other	kg.	Nil
-		<i>Tilapias (Oreochromis spp.), catfish (Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.), carp (Cyprinus spp., Carassius spp., Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp.), eels (Anguilla spp.), Nile perch (Lates niloticus) and snakeheads (Channa spp.), excluding edible fish offal of sub-headings 0302 91 to 0302 99:</i>		
0302 71 00	--	Tilapias ( <i>Oreochromis spp.</i> )	kg.	Nil
0302 72 00	--	Catfish ( <i>Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.</i> )	kg.	Nil
0302 73 00	--	Carp ( <i>Cyprinus spp., Carassius spp., Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp.</i> )	kg.	Nil
0302 74 00	--	Eels ( <i>Anguilla spp.</i> )	kg.	Nil
0302 79 00	--	Other	kg.	Nil



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
-	<i>Other fish excluding edible fish offal of sub-headings 0302 91 to 0302 99:</i>		
0302 81 00	-- Dogfish and other sharks	kg.	Nil
0302 82 00	-- Rays and skates ( <i>Rajidae</i> )	kg.	Nil
0302 83 00	-- Tooth fish ( <i>Dissostichus spp.</i> )	kg.	Nil
0302 84 00	-- Seabass ( <i>Dicentrarchus spp.</i> )	kg.	Nil
0302 85 00	-- Seabream ( <i>Sparidae</i> )	kg.	Nil
0302 89	-- <i>Other:</i>		
0302 89 10	- - - Hilsa ( <i>Tenualosa ilisha</i> )	kg.	Nil
0302 89 20	- - - Dara	kg.	Nil
0302 89 30	- - - Pomfret	kg.	Nil
0302 89 90	- - - Other	kg.	Nil
-	<i>Livers, roes, milt, fish fins, heads, tails, maws and other edible fish offal:</i>		
0302 91	- - <i>Livers, roes and milt:</i>		
0302 91 10	- - - Livers, roes and milt	kg.	Nil
0302 92	- - <i>Shark fins:</i>		
0302 92 10	- - - Shark fins	kg.	Nil
0302 99	- - <i>Other:</i>		
0302 99 10	- - - Fish fins other than shark fins; heads, tails and maws	kg.	Nil
0302 99 90	- - - Other edible fish offal	kg.	Nil

(iv) for heading 0303, tariff items 0303 11 00 to 0303 69 00, sub-heading 0303 81, tariff items 0303 81 10 to 0303 84 00, sub-heading 0303 89, tariff items 0303 89 10 to 0303 89 99, sub-heading 0303 90, tariff items 0303 90 10 to 0303 90 90 and the entries relating thereto, the following shall be substituted, namely:—

**“0303 FISH, FROZEN, EXCLUDING FISH FILLETS AND OTHER FISH MEAT OF HEADING 0304**

-	<i>Salmonidae, excluding edible fish offal of sub-headings 0303 91 to 0303 99:</i>		
0303 11 00	-- Sockeye salmon (red salmon) ( <i>Oncorhynchus nerka</i> )	kg.	Nil
0303 12 00	-- Other Pacific salmon ( <i>Oncorhynchus gorbuscha</i> , <i>Oncorhynchus keta</i> , <i>Oncorhynchus tshawytscha</i> , <i>Oncorhynchus kisutch</i> , <i>Oncorhynchus masou</i> and <i>Oncorhynchus rhodurus</i> )	kg.	Nil
0303 13 00	-- Atlantic salmon ( <i>Salmo salar</i> ) and Danube salmon ( <i>Hucho hucho</i> )	kg.	Nil
0303 14 00	-- Trout ( <i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarkii</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i> , <i>Oncorhynchus apache</i> and <i>Oncorhynchus chrysogaster</i> )	kg.	Nil
0303 19 00	-- Other	kg.	Nil
-	<i>Tilapias (Oreochromis spp.), catfish (Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.), carp (Cyprinus carpio, Carassius carassius, Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp., eels (Anguilla spp.), Nile perch (Lates niloticus) and snakeheads, (Channa spp.), excluding edible fish offal of sub-headings 0303 91 to 0303 99:</i>		
0303 23 00	-- Tilapias ( <i>Oreochromis spp.</i> )	kg.	Nil
0303 24 00	-- Catfish ( <i>Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.</i> )	kg.	Nil



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
0303 25 00 --	Carp ( <i>Cyprinus carpio</i> , <i>Carassius carassius</i> , <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys</i> spp., <i>Cirrhinus</i> spp., <i>Mylopharyngodon piceus</i> , <i>Catla catla</i> , <i>Labeo</i> spp., <i>Osteochilus hasselti</i> , <i>Leptobarbus hoeveni</i> , <i>Megalobrama</i> spp.)	kg.	Nil
0303 26 00 --	Eels ( <i>Anguilla</i> spp.)	kg.	Nil
0303 29 00 --	Other	kg.	Nil
-	Flat fish ( <i>Pleuronectidae</i> , <i>Bothidae</i> , <i>Cynoglossidae</i> , <i>Soleidae</i> , <i>Scophthalmidae</i> and <i>Citharidae</i> ), excluding edible fish offal of sub-headings 0303 91 to 0303 99:		
0303 31 00 - -	Halibut ( <i>Rheinhardtius hippoglossidae</i> , <i>Hippoglossus hippoglossus</i> , <i>Hippoglossus stenolepis</i> )	kg.	Nil
0303 32 00 - -	Plaice ( <i>Pleuronectes platessa</i> )	kg.	Nil
0303 33 00 - -	Sole ( <i>Solea</i> spp.)	kg.	Nil
0303 34 00 - -	Turbots ( <i>Psetta maxima</i> )	kg.	Nil
0303 39 00 - -	Other	kg.	Nil
-	Tunas (of the genus <i>Thunnus</i> ), skipjack or stripe-bellied bonito ( <i>Euthynnus</i> ( <i>Katsuwonus</i> ) <i>pelamis</i> ), excluding edible fish offal of sub-headings 0303 91 to 0303 99:		
0303 41 00 - -	Albacore or long finned tunas ( <i>Thunnus alalunga</i> )	kg.	Nil
0303 42 00 - -	Yellowfin tunas ( <i>Thunnus albacares</i> )	kg.	Nil
0303 43 00 - -	Skipjack or stripe-bellied bonito	kg.	Nil
0303 44 00 - -	Bigeye tunas ( <i>Thunnus obesus</i> )	kg.	Nil
0303 45 00 - -	Atlantic and Pacific bluefin tunas ( <i>Thunnus thynnus</i> , <i>Thunnus orientalis</i> )	kg.	Nil
0303 46 00 - -	Southern bluefin tunas ( <i>Thunnus maccoyii</i> )	kg.	Nil
0303 49 00 - -	Other	kg.	Nil
-	Herrings ( <i>Clupea harengus</i> , <i>Clupea pallasii</i> ), anchovies ( <i>Engraulis</i> spp.), sardines ( <i>Sardina pilchardus</i> , <i>Sardinops</i> spp.), sardinella ( <i>Sardinella</i> spp.), brisling or sprats ( <i>Sprattus sprattus</i> ), mackerel ( <i>Scomber scombrus</i> , <i>Scomber australasicus</i> , <i>Scomber japonicus</i> ), Indian mackerels ( <i>Rastrelliger</i> spp.), seerfishes ( <i>Scomberomorus</i> spp.), jack and horse mackerel ( <i>Trachurus</i> spp.), jacks, crevalles ( <i>Caranx</i> spp.), cobia ( <i>Rachycentron canadum</i> ), silver pomfrets ( <i>Pampus</i> spp.), Pacific saury ( <i>Cololabis saira</i> ), scads ( <i>Decapterus</i> spp.), capelin ( <i>Mallotus villosus</i> ), Sword fish ( <i>Xiphias gladius</i> ), Kawakawa ( <i>Euthynnus affinis</i> ), bonitos ( <i>Sarda</i> spp.), marlins, sailfishes, spearfish ( <i>Istiophoridae</i> ), excluding edible fish offal of sub-headings 0303 91 to 0303 99:		
0303 51 00 - -	Herrings ( <i>Clupea harengus</i> , <i>Clupea pallasii</i> )	kg.	Nil
0303 53 00 - -	Sardines ( <i>Sardina pilchardus</i> , <i>Sardinops</i> spp.), sardinella ( <i>Sardinella</i> spp.), brisling or sprats ( <i>Sprattus sprattus</i> )	kg.	Nil
0303 54 00 - -	Mackerel ( <i>Scomber scombrus</i> , <i>Scomber australasicus</i> , <i>Scomber japonicus</i> )	kg.	Nil
0303 55 00 - -	Jack and horse mackerel ( <i>Trachurus</i> spp.)	kg.	Nil
0303 56 00 - -	Cobia ( <i>Rachycentron canadum</i> )	kg.	Nil
0303 57 00 - -	Sword fish ( <i>Xiphias gladius</i> )	kg.	Nil
0303 59 00 - -	Other	kg.	Nil



Tariff Item		Description of goods	Unit	Rate of Duty
(1)		(2)	(3)	(4)
-		<i>Fish of the families Bregmacerotidae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae, excluding edible fishoffal of sub-headings 0303 91 to 0303 99:</i>		
0303 63 00	--	Cod ( <i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i> )	kg.	Nil
0303 64 00	--	Haddock ( <i>Melanogrammus aeglefinus</i> )	kg.	Nil
0303 65 00	--	Coal fish ( <i>Pollachius virens</i> )	kg.	Nil
0303 66 00	--	Hake ( <i>Merluccius spp.</i> , <i>Urophycis spp.</i> )	kg.	Nil
0303 67 00	--	Alaska Pollack ( <i>Theragra chalcogramma</i> )	kg.	Nil
0303 68 00	--	Blue whittings ( <i>Micromesistius poutassou</i> , <i>Micromesistius australis</i> )	kg.	Nil
0303 69 00	--	Other	kg.	Nil
-		<i>Other fish, excluding edible fishoffal of sub-headings 0303 91 to 0303 99:</i>		
0303 81	--	<i>Dogfish and other sharks:</i>		
0303 81 10	---	Dogfish	kg.	Nil
0303 81 90	---	Other Sharks	kg.	Nil
0303 82 00	--	Rays and skates ( <i>Rajidae</i> )	kg.	Nil
0303 83 00	--	Tooth fish ( <i>Dissostichus spp.</i> )	kg.	Nil
0303 84 00	--	Seabass ( <i>Dicentrarchus spp.</i> )	kg.	Nil
0303 89	--	<i>Other:</i>		
0303 89 10	---	Hilsa ( <i>Tenualosa ilisha</i> )	kg.	Nil
0303 89 20	---	Dara	kg.	Nil
0303 89 30	---	Ribbon fish	kg.	Nil
0303 89 40	---	Seer	kg.	Nil
0303 89 50	---	Pomfret (white or silver or black)	kg.	Nil
0303 89 60	---	Ghol	kg.	Nil
0303 89 70	---	Threadfin	kg.	Nil
0303 89 80	---	Croakers, groupers and flounders	kg.	Nil
0303 89 90	---	Other	kg.	Nil
-		<i>Livers, roes, milt, fish fins, heads, tails, maws and other edible fish offal:</i>		
0303 91	--	<i>Livers, roes and milt:</i>		
0303 91 10	---	Egg or egg yolk of fish	kg.	Nil
0303 91 90	---	Other	kg.	Nil
0303 92	--	<i>Shark fins:</i>		
0303 92 10	---	Shark fins	kg.	Nil
0303 99	--	<i>Other:</i>		
0303 99 10	---	Fish fins other than shark fins, heads, tails and maws	kg.	Nil
0303 99 90	---	Other edible fish offal	kg.	Nil

(v) in heading 0304,—

(a) for the entry in column (2) occurring after the entry against heading 0304, the following shall be substituted, namely:—



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
"	<i>Fresh or chilled fillets of tilapias (Oreochromis spp.), catfish (Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.), carp (Cyprinus spp., Carassius spp., Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp.), eels (Anguilla spp.), Nile perch (Lates niloticus) and snakeheads (Channa spp.):</i> "		
(b) for tariff items 0304 46 00 to 0304 99 00 and the entries relating thereto, the following shall be substituted, namely:—			
"0304 46 00 - -	Tooth fish ( <i>Dissostichus spp.</i> )	kg.	Nil
0304 47 00 - -	Dogfish and other sharks	kg.	Nil
0304 48 00 - -	Rays and skates ( <i>Rajidae</i> )	kg.	Nil
0304 49 - -	Other:		
0304 49 10 - - -	Hilsa ( <i>Tenualosa ilisha</i> )	kg.	Nil
0304 49 30 - - -	Seer	kg.	Nil
0304 49 40 - - -	Tuna	kg.	Nil
0304 49 90 - - -	Other	kg.	Nil
-	Other, fresh or chilled:		
0304 51 00 - -	Tilapias ( <i>Oreochromis spp.</i> ), catfish ( <i>Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.</i> ), carp ( <i>Cyprinus spp., Carassius spp., Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp.</i> ), eels ( <i>Anguilla spp.</i> ), Nile perch ( <i>Lates niloticus</i> ) and snakeheads ( <i>Channa spp.</i> )	kg.	Nil
0304 52 00 - -	Salmonidae	kg.	Nil
0304 53 00 - -	Fish of the families Bregmacerotidae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae	kg.	Nil
0304 54 00 - -	Sword fish ( <i>Xiphias gladius</i> )	kg.	Nil
0304 55 00 - -	Tooth fish ( <i>Dissostichus spp.</i> )	kg.	Nil
0304 56 00 - -	Dogfish and other sharks	kg.	Nil
0304 57 00 - -	Rays and skates ( <i>Rajidae</i> )	kg.	Nil
0304 59 - -	Other:		
0304 59 10 - - -	Hilsa ( <i>Tenualosa ilisha</i> )	kg.	Nil
0304 59 30 - - -	Seer	kg.	Nil
0304 59 40 - - -	Tuna	kg.	Nil
0304 59 90 - - -	Other	kg.	Nil
-	<i>Frozen fillets of tilapias (Oreochromis spp.), catfish (Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.), carp (Cyprinus spp., Carassius spp., Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus, Catla catla, Labeo spp., Osteochilus hasselti, Leptobarbus hoeveni, Megalobrama spp.), eels (Anguilla spp.), Nile perch (Lates niloticus) and snakeheads (Channa spp.):</i>		
0304 61 00 - -	Tilapias ( <i>Oreochromis spp.</i> )	kg.	Nil
0304 62 00 - -	Catfish ( <i>Pangasius spp., Silurus spp., Clarias spp., Ictalurus spp.</i> )	kg.	Nil



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

(vii) in heading 0306, for tariff items 0306 19 00 to 0306 29 00 and the entries relating thereto, the following shall be substituted, namely:—

“0306 19 00	--	Other, including flours, meals and pellets of crustaceans, fit for human consumption	kg.	Nil
	-	<i>Live, fresh or chilled:</i>		
0306 31 00	--	Rock lobster and other sea crawfish ( <i>Palinurus spp.</i> , <i>Jasus spp.</i> )	kg.	Nil
0306 32 00	--	Lobsters ( <i>Homarus spp.</i> )	kg.	Nil
0306 33 00	--	Crabs	kg.	Nil
0306 34 00	--	Norway-lobsters ( <i>Nephrops norvegicus</i> )	kg.	Nil
0306 35 00	--	Cold water shrimps and prawns ( <i>Pandalus spp.</i> , <i>Crangon crangon</i> )	kg.	Nil
0306 36 00	--	Other shrimps and prawns	kg.	Nil
0306 39 00	--	Other, including flours, meals and pellets of crustaceans, fit for human consumption	kg.	Nil
	-	<i>Other:</i>		
0306 91 00	--	Rock-lobster and other sea crawfish ( <i>Palinurus spp.</i> , <i>Jasus spp.</i> )	kg.	Nil
0306 92 00	--	Lobsters ( <i>Homarus spp.</i> )	kg.	Nil
0306 93 00	--	Crabs	kg.	Nil
0306 94 00	--	Norway lobsters ( <i>Nephrops norvegicus</i> )	kg.	Nil
0306 95 00	--	Shrimps and prawns	kg.	Nil
0306 99 00	--	Other, including flours, meals and pellets of crustaceans, fit for human consumption	kg.	Nil”;

(viii) in heading 0307,—

(a) after tariff item 0307 11 00 and the entries relating thereto, the following shall be inserted, namely:—

“0307 12 00	--	Frozen	kg.	Nil”;
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(b) after tariff item 0307 21 00 and the entries relating thereto, the following shall be inserted, namely:—

“0307 22 00	--	Frozen	kg.	Nil”;
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(c) after tariff item 0307 31 00 and the entries relating thereto, the following shall be inserted, namely:—

“0307 32 00	--	Frozen	kg.	Nil”;
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(d) for tariff items 0307 39 90 to 0307 49 90 and the entries relating thereto, the following shall be substituted, namely:—

“0307 39 90	---	Other	kg.	Nil
	-	<i>Cuttle fish and squid:</i>		
0307 42	--	<i>Live, fresh or chilled:</i>		
0307 42 10	---	Cuttle fish	kg.	Nil
0307 42 20	---	Squid	kg.	Nil
0307 43	--	<i>Frozen:</i>		
0307 43 10	---	Cuttle fish	kg.	Nil
0307 43 20	---	Whole squids	kg.	Nil
0307 43 30	---	Squid tubes	kg.	Nil
0307 49	--	<i>Other:</i>		



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
0307 49 10 ---	Cuttle fish	kg.	Nil
0307 49 20 ---	Whole squids	kg.	Nil
0307 49 30 ---	Squid tubes	kg.	Nil
0307 49 40 ---	Dried squids	kg.	Nil
0307 49 90 ---	Other	kg.	Nil”;

(e) after tariff item 0307 51 00 and the entries relating thereto, the following shall be inserted, namely:—

“0307 52 00 - -	Frozen	kg.	Nil”;
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(f) after tariff item 0307 71 00 and the entries relating thereto, the following shall be inserted, namely:—

“0307 72 00 - -	Frozen	kg.	Nil”;
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(g) for tariff items 0307 79 00 to 0307 89 00 and the entries relating thereto, the following shall be substituted, namely:—

“0307 79 00 - -	Other	kg.	Nil
-	<i>Abalone (Haliotis Spp.) and stromboid conchs (Strombus spp.)</i> :		
0307 81 00 - -	Live, fresh or chilled abalone ( <i>Haliotis spp.</i> )	kg.	Nil
0307 82 00 - -	Live, fresh or chilled stromboid conchs ( <i>Strombus spp.</i> )	kg.	Nil
0307 83 00 - -	Frozen abalone ( <i>Haliotis spp.</i> )	kg.	Nil
0307 84 00 - -	Frozen stromboid conchs ( <i>Strombus spp.</i> )	kg.	Nil
0307 87 00 - -	Other abalone ( <i>Haliotis spp.</i> )	kg.	Nil
0307 88 00 - -	Other stromboid conchs ( <i>Strombus spp.</i> )	kg.	Nil”;

(h) after tariff item 0307 91 00 and the entries relating thereto, the following shall be inserted, namely:—

“0307 92 00 - -	Frozen	kg.	Nil”;
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(ix) in heading 0308,—

(a) for the entry in column (2) occurring after the entry against heading 0308, the following shall be substituted, namely:—

“- *Sea cucumbers (Stichopus japonicus, Holothuroidea)*”;

(b) after tariff item 0308 11 00 and the entries relating thereto, the following shall be inserted, namely:—

“0308 12 00 - -	Frozen	kg.	Nil”;
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(c) for tariff items 0308 19 00 to 0308 21 00 and the entries relating thereto, the following shall be substituted, namely:—

“0308 19 00 - -	Other	kg.	Nil
-	<i>Sea urchins (Strongylocentrotus spp., Paracentrotus lividus, Loxechinus albus, Echinus esculentus)</i> :		
0308 21 00 - -	Live, fresh or chilled	kg.	Nil
0308 22 00 - -	Frozen	kg.	Nil”;

(2) in Chapter 4, in Note 4,—

(A) in clause (a), the word “or” shall be omitted;

(B) after clause (a), the following clause shall be inserted, namely:—

“(b) products obtained from milk by replacing one or more of its natural constituents (for example, butyric fats) by another substance (for example, oleic fats) (heading 1901 or 2106); or”;



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

(C) the existing clause (b) shall be re-lettered as (c);

(3) in Chapter 5, for Note 4, the following Note shall be substituted, namely:—

“4. Throughout the Schedule, the expression “horsehair” means hair of the manes or tails of equine or bovine animals. Heading 0511 covers, *inter alia*, horsehair and horsehair waste, whether or not put up as a layer with or without supporting material.”;

(4) in Chapter 8, in heading 0805, for tariff item 0805 20 00 and the entries relating thereto, the following shall be substituted, namely:—

	“	<i>Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids:</i>		
0805 21 00	--	Mandarins (including tangerines and satsumas)	kg.	Nil
0805 22 00	--	Clementines	kg.	Nil
0805 29 00	--	Other	kg.	Nil”;

(5) in Chapter 12,—

(i) for heading 1211 and the entries relating thereto, the following shall be substituted, namely:—

“1211	PLANTS AND PARTS OF PLANTS (INCLUDING SEEDS AND FRUITS), OF A KIND USED PRIMARILY IN PERFUMERY, IN PHARMACY OR FOR INSECTICIDAL, FUNGICIDAL OR SIMILAR PURPOSE, FRESH, CHILLED, FROZEN OR DRIED, WHETHER OR NOT CUT, CRUSHED OR POWDERED”;
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(ii) after tariff item 1211 40 00 and the entries relating thereto, the following shall be inserted, namely:—

“1211 50 00	--	Ephedra	kg.	”;
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(6) in Chapter 13, in heading 1302, after tariff item 1302 13 00 and the entries relating thereto, the following shall be inserted, namely:—

“1302 14 00	--	Of ephedra	kg.	12.5%”;
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(7) in Chapter 16,—

(i) in Sub-heading Note 1, for the words “as infant food”, the words “as food suitable for infants or young children” shall be substituted;

(ii) in heading 1604, after tariff item 1604 17 00 and the entries relating thereto, the following shall be inserted, namely:—

“1604 18 00	--	Shark fins	kg.	6%”;
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(8) in Chapter 19, for sub-heading 1901 10 and the entries relating thereto, the following shall be substituted, namely:—

“1901 10	--	<i>Preparations suitable for infants or young children, put up for retail sale.”;</i>
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(9) in Chapter 20,—

(i) in Sub-heading Note 1, for the words “as infant food”, the words “as food suitable for infants or young children” shall be substituted;

(ii) in Sub-heading Note 2, for the words “as infant food”, the words “as food suitable for infants or young children” shall be substituted;

(10) in Chapter 21, in Sub-heading Note 3, for the words “as infant food”, the words “as food suitable for infants or young children” shall be substituted;

(11) in Chapter 22,—

(i) for sub-heading 2202 90, tariff items 2202 90 10 to 2202 90 90 and the entries relating thereto, the following shall be substituted, namely:—

	“	<i>Other:</i>		
2202 91 00	--	Non alcoholic beer	l	18%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
2202 99 --	<i>Other:</i>		
2202 99 10 ---	Soya milk drinks, whether or not sweetened or flavoured	l	18%
2202 99 20 ---	Fruit pulp or fruit juice based drink	l	6%
2202 99 30 ---	Beverages containing milk	l	12.5%
2202 99 90 ---	Other	l	12.5%";
(ii) after tariff item 2204 21 90 and the entries relating thereto, the following shall be inserted, namely:—			
"2204 22 --			
2204 22 10 ---			
2204 22 20 ---			
2204 22 90 ---			-";
(iii) for tariff item 2206 00 00 and the entries relating thereto, the following shall be substituted, namely:—			
"2206 00 00 -			-";
(12) in Chapter 27,—			
(i) for Sub-heading Note 4, the following shall be substituted, namely:—			
"4. For the purposes of sub-heading 2710 12, "light oils and preparations" are those of which 90 % or more by volume (including losses) distil at 210 °C according to the ISO 3405 method (equivalent to the ASTM D 86 method).";			
(ii) for tariff item 2707 50 00 and the entries relating thereto, the following shall be substituted, namely:—			
"2707 50 00 -	Other aromatic hydrocarbon mixtures of which 65 % or more by volume (including losses) distils at 250 °C by the ISO 3405 method (equivalent to the ASTM D 86 method)	kg	14%";
(13) in Chapter 28,—			
(i) for Note 7, the following shall be substituted, namely:—			
"7. Heading 2853 includes copper phosphide (phosphor copper) containing more than 15 % by weight of phosphorus.";			
(ii) after tariff item 2811 11 00 and the entries relating thereto, the following shall be inserted, namely:—			
"2811 12 00 --	Hydrogen cyanide (hydrocyanic acid )	kg	12.5%";
(iii) tariff item 2811 19 10 and the entries relating thereto shall be omitted;			
(iv) for sub-heading 2812 10, tariff items 2812 10 10 to 2812 90 00 and the entries relating thereto, the following shall be substituted namely:—			
	<i>Chlorides and chloride oxides:</i>		
2812 11 00 --	Carbonyl dichloride (phosgene)	kg	12.5%
2812 12 00 --	Phosphorous oxychloride	kg	12.5%
2812 13 00 --	Phosphorous trichloride	kg	12.5%
2812 14 00 --	Phosphorous pentachloride	kg	12.5%
2812 15 00 --	Sulphur monochloride	kg	12.5%
2812 16 00 --	Sulphur dichloride	kg	12.5%
2812 17 00 --	Thionyl chloride	kg	12.5%
2812 19 --	<i>Other:</i>		
2812 19 10 ---	Sulphur oxychloride	kg	12.5%
2812 19 20 ---	Silicon tetrachloride	kg	12.5%
2812 19 30 ---	Arsenous trichloride	kg	12.5%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
2812 19 90 ---	Other	kg.	12.5%
2812 90 00 -	Other	kg.	12.5%";

(v) the heading 2848, sub-heading 2848 00, tariff items 2848 00 10 to 2848 00 90 and the entries relating thereto shall be omitted;

(vi) for heading 2853, sub-heading 2853 00, tariff items 2853 00 10 to 2853 00 99 and the entries relating thereto, the following shall be substituted, namely:—

2853	<b>PHOSPHIDES, WHETHER OR NOT CHEMICALLY DEFINED, EXCLUDING FERROPHOSPHORUS; OTHER INORGANIC COMPOUNDS (INCLUDING DISTILLED OR CONDUCTIVITY WATER AND WATER OF SIMILAR PURITY); LIQUID AIR (WHETHER OR NOT RARE GASES HAVE BEEN REMOVED); COMPRESSED AIR; AMALGAMS, OTHER THAN AMALGAMS OF PRECIOUS METALS</b>		
2853 10 00 -	Cyanogen chloride (chlorocyan)	kg.	12.5%
2853 90 -	Other:		
2853 90 10 ---	Distilled or conductivity water and water of similar purity	kg.	12.5%
2853 90 20 ---	Liquid air, whether or not rare gases have been removed	kg.	12.5%
2853 90 30 ---	Compressed air	kg.	Nil
2853 90 40 ---	Amalgams, other than of precious metals	kg.	12.5%
2853 90 90 ---	Other	kg.	12.5%";

(14) in Chapter 29,—

(i) after tariff item 2903 82 00 and the entries relating thereto, the following shall be inserted, namely:—

2903 83 00 --	Mirex (ISO)	kg.	12.5%";
(ii) after tariff item 2903 92 29 and the entries relating thereto, the following shall be inserted, namely:—			
2903 93 00 --	Pentachlorobenzene (ISO)	kg.	12.5%
2903 94 00 --	Hexabromobiphenyls	kg.	12.5%";

(iii) in heading 2904,—

(a) after tariff item 2904 20 90 and the entries relating thereto, the following shall be inserted, namely:—

<i>Perfluorooctane sulphonic acid, its salts and perfluorooctane sulphonyl fluoride:</i>			
2904 31 00 --	Perfluorooctane sulphonic acid	kg.	12.5%
2904 32 00 --	Ammonium perfluorooctane sulphonate	kg.	12.5%
2904 33 00 --	Lithium perfluorooctane sulphonate	kg.	12.5%
2904 34 00 --	Potassium perfluorooctane sulphonate	kg.	12.5%
2904 35 00 --	Other salts of perfluorooctane sulphonic acid	kg.	12.5%
2904 36 00 --	Perfluorooctane sulphonyl fluoride	kg.	12.5%";

(b) for sub-heading 2904 90, tariff items 2904 90 10 to 2904 90 90 and the entries relating thereto, the following shall be substituted, namely:—

<i>Other:</i>			
2904 91 00 --	Trichloronitromethane (chloropicrin)	kg.	12.5%
2904 99 --	Other:		
2904 99 10 ---	2, 5 dichloronitrobenzene	kg.	12.5%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
2904 99 20	--- Dinitrochlorobenzene	kg.	12.5%
2904 99 30	--- Meta nitrochlorobenzene	kg.	12.5%
2904 99 40	--- Ortho nitrochlorobenzene	kg.	12.5%
2904 99 50	--- Para nitrochlorobenzene	kg.	12.5%
2904 99 60	--- 2-nitrochlorotoluene	kg.	12.5%
2904 99 70	--- Sodium meta nitrochlorobenzene sulphonate	kg.	12.5%
2904 99 90	--- Other	kg.	12.5%";
(iv) after tariff item 2910 40 00 and the entries relating thereto, the following shall be inserted, namely:—			
"2910 50 00	- Endrin (ISO)	kg.	12.5%";
(v) in heading 2914,—			
(a) after tariff item 2914 61 00 and the entries relating thereto, the following shall be inserted, namely:—			
"2914 62 00	-- Coenzyme Q10 (ubidecarenone (INN))	kg.	12.5%";
(b) for sub-heading 2914 70, tariff items 2914 70 10 to 2914 70 90 and the entries relating thereto, the following shall be substituted, namely:—			
"	<i>Halogenated, sulphonated, nitrated or nitrosated derivatives:</i>		
2914 71 00	-- Chlordecone (ISO)	kg.	12.5%
2914 79	-- <i>Other:</i>		
2914 79 10	--- 1-chloro anthraquinone	kg.	12.5%
2914 79 20	--- Musk ketone	kg.	12.5%
2914 79 90	--- Other	kg.	12.5%";
(vi) after tariff item 2918 16 90 and the entries relating thereto, the following shall be inserted, namely:—			
"2918 17 00	-- 2, 2-Diphenyl-2-hydroxyacetic acid (benzilic acid)	kg.	12.5%";
(vii) for sub-heading 2920 90, tariff items 2920 90 10 to 2920 90 44 and the entries relating thereto, the following shall be substituted, namely:—			
"	<i>Phosphite esters and their salts; their halogenated, sulphonated, nitrated or nitrosated derivatives:</i>		
2920 21 00	-- Dimethyl phosphite	kg.	12.5%
2920 22 00	-- Diethyl phosphite	kg.	12.5%
2920 23 00	-- Trimethyl phosphite	kg.	12.5%
2920 24 00	-- Triethyl phosphite	kg.	12.5%
2920 29	-- <i>Other:</i>		
2920 29 10	--- Dimethyl sulphate	kg.	12.5%
2920 29 20	--- Diethyl sulphate	kg.	12.5%
2920 29 30	--- Tris (2, 3 Dibromopropyl) phosphate	kg.	12.5%
2920 29 90	--- Other	kg.	12.5%
2920 30 00	- Endosulfan (ISO)	kg.	12.5%";
(viii) for sub-heading 2921 19, tariff items 2921 19 11 to 2921 19 90 and the entries relating thereto, the following shall be substituted, namely:—			
"2921 12 00	-- 2-(N, N-Dimethylamino) ethylchloride hydrochloride	kg.	12.5%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
2921 13 00 --	2-(N, N-Diethylamino) ethylchloride hydrochloride	kg.	12.5%
2921 14 00 --	2-(N, N-Diisopropylamino) ethylchloride hydrochloride	kg.	12.5%
2921 19 --	<i>Other:</i>		
2921 19 10 ---	2-Chloro N, N-Diisopropyl ethylamine	kg.	12.5%
2921 19 20 ---	2-Chloro N, N-Dimethyl ethanamine	kg.	12.5%
2921 19 90 ---	Other	kg.	12.5%";

(ix) for sub-heading 2922 12, tariff items 2922 12 10 to 2922 12 90 and the entries relating thereto, the following shall be substituted, namely:—

2922 12 00 --	Diethanolamine and its salts	kg.	12.5%";
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(x) for sub-heading 2922 13, tariff items 2922 13 10 to 2922 13 90, tariff item 2922 14 00, sub-heading 2922 19, tariff items 2922 19 40 to 2922 19 90 and the entries relating thereto, the following shall be substituted, namely:—

2922 14 00 --	Dextropropoxyphene (INN) and its salts	kg.	12.5%
2922 15 00 ---	Triethanolamine	kg.	12.5%
2922 16 00 --	Diethanolammonium perfluorooctane sulphonate	kg.	12.5%
2922 17 --	<i>Methyldiethanolamine and ethyldiethanolamine:</i>		
2922 17 10 ---	Methyldiethanolamine	kg.	12.5%
2922 17 20 ---	Ethyldiethanolamine	kg.	12.5%
2922 18 00 --	2-(N, N-Diisopropylamino) ethanol	kg.	12.5%
2922 19 --	<i>Other:</i>		
2922 19 10 ---	2-Hydroxy N, N-Diisopropyl ethylamine	kg.	12.5%
2922 19 90 ---	Other	kg.	12.5%";

(xi) after tariff item 2923 20 90 and the entries relating thereto, the following shall be inserted, namely:—

2923 30 00 -	Tetraethylammonium perfluorooctane sulphonate	kg.	12.5%
2923 40 00 -	Didecyldimethylammonium perfluorooctane sulphonate	kg.	12.5%";

(xii) after tariff item 2924 24 00 and the entries relating thereto, the following shall be inserted, namely:—

2924 25 00 --	Alachlor (ISO)	kg.	12.5%";
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(xiii) after tariff item 2926 30 00 and the entries relating thereto, the following shall be inserted, namely:—

2926 40 00 -	Alpha-phenylacetoacetonitrile	kg.	12.5%";
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(xiv) for tariff item 2930 50 00 and the entries relating thereto, the following shall be substituted, namely:—

2930 60 00 -	2-(N, N-Diethylamino) ethanethiol	kg.	12.5%
2930 70 00 -	Bis(2-hydroxyethyl)sulfide (thiodiglycol (INN))	kg.	12.5%
2930 80 00 -	Aldicarb (ISO), captafol (ISO) and methamidophos (ISO)	kg.	12.5%";

(xv) after tariff item 2931 20 00 and the entries relating thereto, the following shall be inserted, namely:—

	<i>Other organo-phosphorous derivatives:</i>		
2931 31 00 --	Dimethyl methylphosphonate	kg.	12.5%
2931 32 00 --	Dimethyl propylphosphonate	kg.	12.5%
2931 33 00 --	Diethyl ethylphosphonate	kg.	12.5%
2931 34 00 --	Sodium 3-(trihydroxysilyl)propyl methylphosphonate	kg.	12.5%
2931 35 00 --	2, 4, 6-Tripentyl-1, 3, 5, 2, 4, 6-trioxatraphosphinane 2, 4, 6-trioxide	kg.	12.5%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
2931 36 00 --	(5-Ethyl-2-methyl-2-oxido-1, 3, 2-dioxaphosphinan-5-yl)methyl methyl methylphosphonate	kg.	12.5%
2931 37 00 --	Bis[(5-ethyl-2-methyl-2-oxido-1, 3, 2-dioxaphosphinan-5-yl)methyl] methylphosphonate	kg.	12.5%
2931 38 00 --	Salt of methylphosphonic acid and (aminoiminomethyl)urea (1: 1)	kg.	12.5%
2931 39 00 --	Other	kg.	12.5%";

(xvi) after tariff item 2932 13 00 and the entries relating thereto, the following shall be inserted, namely:—

"2932 14 00 --	Sucralose	kg.	12.5%";
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(xvii) after tariff item 2933 91 00 and the entries relating thereto, the following shall be inserted, namely:—

"2933 92 00 --	Azinphos-methyl (ISO)	kg.	12.5%";
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(xviii) for heading 2935, sub-heading 2935 00, tariff items 2935 00 11 to 2935 00 90 and the entries relating thereto, the following shall be substituted, namely:—

"2935	<b>SULPHONAMIDES</b>		
2935 10 00 -	N-Methylperfluorooctane sulphonamide	kg.	12.5%
2935 20 00 -	N-Ethylperfluorooctane sulphonamide	kg.	12.5%
2935 30 00 -	N-Ethyl-N-(2-hydroxyethyl) perfluorooctane sulphonamide	kg.	12.5%
2935 40 00 -	N-(2-Hydroxyethyl)-N-methylperfluorooctane sulphonamide	kg.	12.5%
2935 50 00 -	Other perfluorooctane sulphonamides	kg.	12.5%
2935 90 -	<i>Other:</i>		
---	<i>Sulphamethoxazole, sulphafurazole, sulphadiazine, sulphadimidine, sulphacetamide:</i>		
2935 90 11 ----	Sulphamethoxazole	kg.	12.5%
2935 90 12 ----	Sulphafurazole	kg.	12.5%
2935 90 13 ----	Sulphadiazine	kg.	12.5%
2935 90 14 ----	Sulphadimidine	kg.	12.5%
2935 90 15 ----	Sulphacetamide	kg.	12.5%
---	<i>Sulphamethoxypyridarine, sulphamethiazole, sulphamoxole, sulphamide:</i>		
2935 90 21 ----	Sulphamethoxypyridarine	kg.	12.5%
2935 90 22 ----	Sulphamethiazole	kg.	12.5%
2935 90 23 ----	Sulphamoxole	kg.	12.5%
2935 90 24 ----	Sulphamide	kg.	12.5%
2935 90 90 ---	Other	kg.	12.5%";

(xix) for the tariff item 2937 31 00 and the entries relating thereto, the following shall be substituted, namely:—

"2937 31 00 --	Epinephrine	kg.	12.5%";
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(xx) in the entry under column (2) occurring after tariff item 2937 90 90 and the entries relating thereto, the word "VEGETABLE" shall be omitted;

(xxi) for heading 2939 and the entries relating thereto, the following shall be substituted, namely:—

"2939	<b>ALKALOIDS, NATURAL OR REPRODUCED BY SYNTHESIS, AND THEIR SALTS, ETHERS, ESTERS AND OTHER DERIVATIVES";</b>
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(xxii) for tariff items 2939 69 00 to 2939 99 00 and the entries relating thereto, the following shall be substituted, namely:—



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
2939 69 00 --	Other	kg.	12.5%
-	<i>Other, of vegetal origin:</i>		
2939 71 00 --	Cocaine, ecgonine, levometamfetamine, metamfetamine (INN), metamfetamine racemate; salts, esters and other derivatives thereof.	kg.	12.5%
2939 79 00 --	Other	kg.	12.5%
2939 80 00 -	Other	kg.	12.5%";

(15) in Chapter 30,—

(i) after Note 4, the following shall be inserted, namely:—

“Sub-heading Notes:

1. For the purposes of sub-headings 3002 13 and 3002 14, the following are to be treated:

(a) as unmixed products, pure products, whether or not containing impurities;

(b) as products which have been mixed:

(1) the products mentioned in (a) above dissolved in water or in other solvents;

(2) the products mentioned in (a) and (b) (1) above with an added stabiliser necessary for their preservation or transport; and

(3) the products mentioned in (a), (b) (1) and (b) (2) above with any other additive.

2. Sub-headings 3003 60 and 3004 60 cover medicaments containing artemisinin (INN) for oral ingestion combined with other pharmaceutical active ingredients, or containing any of the following active principles, whether or not combined with other pharmaceutical active ingredients: amodiaquine (INN); arteminic acid or its salts; artemimol (INN); artemotil (INN); artemether (INN); artesunate (INN); chloroquine (INN); dihydroartemisinin (INN); lumefantrine (INN); mefloquine (INN); piperazine (INN); pyrimethamine (INN) or sulfadoxine (INN).”;

(ii) for sub-heading 3002 10, tariff items 3002 10 11 to 3002 10 99 and the entries relating thereto, the following shall be substituted, namely:—

	“-	<i>Antisera, other blood fractions and immunological products, whether or not modified or obtained by biotechnological processes:</i>		
3002 11 00 --	--	Malaria diagnostic test kits	kg.	6%
3002 12	--	<i>Antisera and other blood fractions:</i>		
3002 12 10 ---	---	For diphtheria	kg.	Nil
3002 12 20 ---	---	For tetanus	kg.	Nil
3002 12 30 ---	---	For rabies	kg.	Nil
3002 12 40 ---	---	For snake venom	kg.	Nil
3002 12 90 ---	---	Other	kg.	Nil
3002 13	--	<i>Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale:</i>		
3002 13 10 ---	---	Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale	kg.	6%
3002 14	--	<i>Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale:</i>		
3002 14 10 ---	---	Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale	kg.	6%
3002 15 00 --	--	Immunological products, put up in measured doses or in forms or packings for retail sale	kg.	6%
3002 19 00 --	--	Other	kg.	6%”;



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
(iii) for tariff items 3003 20 00 to 3003 40 00 and the entries relating thereto, the following shall be substituted, namely:—			
“3003 20 00 -	Other, containing antibiotics	kg.	6%
-	Other, containing hormones or other products of heading 2937:		
3003 31 00 --	Containing insulin	kg.	6%
3003 39 00 --	Other	kg.	6%
-	Other, containing alkaloids or derivatives thereof:		
3003 41 00 --	Containing ephedrine or its salts	kg.	6%
3003 42 00 --	Containing pseudoephedrine (INN) or its salts	kg.	6%
3003 43 00 --	Containing norephedrine or its salts	kg.	6%
3003 49 00 --	Other	kg.	6%
3003 60 00 -	Other, containing antimalarial active principles described in Sub-heading Note 2 to this Chapter	kg.	6%”;
(iv) in heading 3004,—			
(a) for sub-heading 3004 20 and the entries relating thereto, the following shall be substituted, namely:—			
“3004 20 --	Other, containing antibiotics:”;		
(b) for tariff item 3004 20 99, sub-heading 3004 31 and the entries relating thereto, the following shall be substituted, namely:—			
“3004 20 99 ---	Other	kg.	6%
-	Other, containing hormones and other products of heading 2937:		
3004 31 --	Containing insulin:”;		
(c) for sub-heading 3004 40, tariff items 3004 40 10 to 3004 40 90 and the entries relating thereto, the following shall be substituted, namely:—			
“-	Other, containing alkaloids or derivatives thereof:		
3004 41 00 --	Containing ephedrine or its salts	kg.	6%
3004 42 00 --	Containing pseudoephedrine (INN) or its salts	kg.	6%
3004 43 00 --	Containing norephedrine or its salts	kg.	6%
3004 49 --	Other:		
3004 49 10 ---	Atropin and salts thereof	kg.	6%
3004 49 20 ---	Caffeine and salts thereof	kg.	6%
3004 49 30 ---	Codeine and derivatives, with or without ephedrine hydrochloride	kg.	6%
3004 49 40 ---	Ergot preparations, ergotamine and salts thereof	kg.	6%
3004 49 50 ---	Papaverine hydrochloride	kg.	6%
3004 49 60 ---	Bromohexin and salbutamol	kg.	6%
3004 49 70 ---	Theophylline and salts thereof	kg.	6%
3004 49 90 ---	Other	kg.	6%”;
(d) for sub-heading 3004 50 and the entries relating thereto, the following shall be substituted, namely:—			
“3004 50 -	Other, containing vitamins or other products of heading 2936:”;		
(e) after tariff item 3004 50 90 and the entries relating thereto, the following shall be inserted, namely:—			
“3004 60 00 -	Other, containing antimalarial active principles described in Sub-heading Note 2 to this Chapter	kg.	6%”;



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

(16) in Chapter 31, in heading 3103, for tariff item 3103 10 00 and the entries relating thereto, the following shall be substituted, namely:—

	“- Superphosphates:		
3103 11 00	-- Containing by weight 35 % or more of diphosphorus pentoxide (P <sub>2</sub> O <sub>5</sub> )	kg.	12.5%
3103 19 00	-- Other	kg.	12.5%”;

(17) in Chapter 37, in heading 3705, for tariff item 3705 10 00, sub-heading 3705 90, tariff items 3705 90 10 and 3705 90 90 and the entries relating thereto, the following shall be substituted, namely:—

“3705 00 00	- PHOTOGRAPHIC PLATES AND FILM, EXPOSED AND DEVELOPED, OTHER THAN CINEMATOGRAPHIC FILM	kg.	Nil”;
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(18) in Chapter 38,—

(i) for Sub-heading Notes 1 and 2, the following shall be substituted, namely:—

‘Sub-heading Notes:

1. Sub-headings 3808 52 and 3808 59 cover only goods of heading 3808, containing one or more of the following substances: alachlor (ISO); aldicarb (ISO); aldrin (ISO); azinphos-methyl (ISO); binapacryl (ISO); camphechlor (ISO) (toxaphene); captafol (ISO); chlordane (ISO); chlordimeform (ISO); chlorobenzilate (ISO); DDT (ISO) (clofenotane (INN), 1, 1, 1-trichloro-2, 2-bis(p-chlorophenyl)ethane); dieldrin (ISO, INN); 4, 6- dinitro-o-cresol (DNOC (ISO)) or its salts; dinoseb (ISO), its salts or its esters; endosulfan (ISO); ethylene dibromide (ISO) (1, 2-dibromoethane); ethylene dichloride (ISO) (1, 2-dichloroethane); fluoroacetamide (ISO); heptachlor (ISO); hexachlorobenzene (ISO); 1, 2, 3, 4, 5, 6- hexachlorocyclohexane (HCH (ISO)), including lindane (ISO, INN); mercury compounds; methamidophos (ISO); monocrotophos (ISO); oxirane (ethylene oxide); parathion (ISO); parathion-methyl (ISO) (methylparathion); penta- and octabromodiphenyl ethers; pentachlorophenol (ISO), its salts or its esters; perfluorooctane sulphonic acid and its salts; perfluorooctane sulphonamides; perfluorooctane sulphonyl fluoride; phosphamidon (ISO); 2, 4, 5-T (ISO) (2, 4, 5-trichlorophenoxyacetic acid), its salts or its esters; tributyltin compounds.

Sub-heading 3808 59 also covers dustable powder formulations containing a mixture of benomyl (ISO), carbofuran (ISO) and thiram (ISO).

2. Sub-headings 3808 61 to 3808 69 cover only goods of heading 3808, containing alpha-cypermethrin (ISO), bendiocarb (ISO), bifenthrin (ISO), chlorfenapyr (ISO), cyfluthrin (ISO), deltamethrin (INN, ISO), etofenprox (INN), fenitrothion (ISO), lambda-cyhalothrin (ISO), malathion (ISO), pirimiphos-methyl (ISO) or propoxur (ISO).

3. Sub-headings 3824 81 to 3824 88 cover only mixtures and preparations containing one or more of the following substances: oxirane (ethylene oxide), polybrominated biphenyls (PBBs), polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs), tris(2, 3-dibromopropyl) phosphate, aldrin (ISO), camphechlor (ISO) (toxaphene), chlordane (ISO), chlordecone (ISO), DDT (ISO) (clofenotane (INN), 1, 1, 1-trichloro-2, 2-bis(p-chlorophenyl)ethane), dieldrin (ISO, INN), endosulfan (ISO), endrin (ISO), heptachlor (ISO), mirex (ISO), 1, 2, 3, 4, 5, 6-hexachlorocyclohexane (HCH (ISO)), including lindane (ISO, INN), pentachlorobenzene (ISO), hexachlorobenzene (ISO), perfluorooctane sulphonic acid, its salts, perfluorooctane sulphonamides, perfluorooctane sulphonyl fluoride or tetra-, penta-, hexa-, hepta- or octabromodiphenyl ethers.

4. For the purposes of tariff items 3825 41 00 and 3825 49 00, “waste organic solvents” are wastes containing mainly organic solvents, not fit for further use as presented as primary products, whether or not intended for recovery of solvents.”;

(ii) for sub-heading 3808 50 and tariff item 3808 50 00 and the entries relating thereto, the following shall be substituted, namely:—

	“- Goods specified in Sub-heading Note 1 to this Chapter:		
3808 52 00	-- DDT (ISO) (clofenotane (INN)), in packings of a net weight content not exceeding 300g	kg.	12.5%
3808 59 00	-- Other	kg.	12.5%
	Goods specified in Sub-heading Note 2 to this Chapter:		
3808 61 00	-- In packings of a net weight content not exceeding 300g	kg.	12.5%
3808 62 00	-- In packings of a net weight content exceeding 300g but not exceeding 7.5 kg.	kg.	12.5%
3808 69 00	-- Other	kg.	12.5%”;



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

(iii) for sub-heading 3812 30 and tariff items 3812 30 10 to 3812 30 90 and the entries relating thereto, the following shall be substituted, namely:—

	“-	<i>Anti-oxidising preparations and other compound stabilizers for rubber or plastics:</i>		
3812 31 00	--	Mixtures of oligomers of 2, 2, 4-trimethyl-1, 2-dihydroquinoline (TMQ)	kg.	12.5%
3812 39	--	<i>Other:</i>		
3812 39 10	---	Anti-oxidants for rubber	kg.	12.5%
3812 39 20	---	Softeners for rubber	kg.	12.5%
3812 39 30	---	Vulcanizing agents for rubber	kg.	12.5%
3812 39 90	---	Other	kg.	12.5%”;

(iv) for tariff items 3824 79 00 to 3824 83 00, sub-heading 3824 90, tariff items 3824 90 11 to 3824 90 90 and the entries relating thereto, the following shall be substituted, namely:—

“3824 79 00	--	Other	kg.	12.5%
	-	<i>Goods specified in Sub-heading Note 3 to this Chapter:</i>		
3824 81 00	--	Containing oxirane (ethylene oxide)	kg.	12.5%
3824 82 00	--	Containing polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) or polybrominated biphenyls (PBBs)	kg.	12.5%
3824 83 00	--	Containing tris(2, 3-dibromopropyl) phosphate	kg.	12.5%
3824 84 00	--	Containing aldrin (ISO), camphechlor (ISO) (toxaphene), chlordane (ISO), chlordecone (ISO), DDT (ISO) (clofenotane (INN), 1, 1, 1-trichloro-2, 2-bis (p-chlorophenyl)ethane), dieldrin (ISO, INN), endosulfan (ISO), endrin (ISO), heptachlor (ISO) or mirex (ISO)	kg.	12.5%
3824 85 00	--	Containing 1, 2, 3, 4, 5, 6-hexachlorocyclohexane (HCH (ISO)), including lindane (ISO, INN)	kg.	12.5%
3824 86 00	--	Containing pentachlorobenzene (ISO) or hexachlorobenzene (ISO)	kg.	12.5%
3824 87 00	--	Containing perfluorooctane sulphonic acid, its salts, perfluorooctane sulphonamides, or perfluorooctane sulphonyl fluoride	kg.	12.5%
3824 88 00	--	Containing tetra-, penta-, hexa- hepta- or octabromodiphenyl ethers	kg.	12.5%
3824 91 00	--	Mixtures and preparations consisting mainly of (5-ethyl-2-methyl-2-oxido-1, 3, 2-dioxaphosphinan-5-yl)methyl methyl methylphosphonate and bis[(5-ethyl-2-methyl-2-oxido-1, 3, 2- dioxaphosphinan-5-yl)methyl] methylphosphonate:		
3824 99	--	<i>Other:</i>		
	---	<i>Ammoniacal gas liquors and spent oxide produced in coal gas purification, case hardening compound, heat transfer salts; mixture of diphenyl and diphenyl oxide as heat transfer medium, mixed polyethylene glycols; salts for curing or salting, surface tension reducing agents:</i>		
3824 99 11	----	Ammoniacal gas liquors and spent oxide produced in coal gas purification	kg.	12.5%
3824 99 12	----	Case hardening compound	kg.	12.5%
3824 99 13	----	Heat transfer salts	kg.	12.5%
3824 99 14	----	Mixture of diphenyl and diphenyl oxide as heat transfer medium	kg.	12.5%
3824 99 15	----	Mixed polyethylene glycols	kg.	12.5%
3824 99 16	----	Salts for curing or salting	kg.	12.5%
3824 99 17	----	Surface tension reducing agents	kg.	12.5%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
---	<i>Electroplating salts; water treatment chemicals; ion exchanger, correcting fluid; precipitated silica and silica gel; oil well chemical:</i>		
3824 99 21	Electroplating salts	kg.	12.5%
3824 99 22	Water treatment chemicals; ion exchanger (INN) such as permutits, zero-lites	kg.	12.5%
3824 99 23	Gramophone records making material	kg.	12.5%
3824 99 24	Correcting fluid	kg.	12.5%
3824 99 25	Precipitated silica and silica gel	kg.	12.5%
3824 99 26	Oil well chemical	kg.	12.5%
---	<i>Mixture containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens other than chlorine and fluorine; ferrite powder; capacitor fluids - PCB type; dipping oil for treatment of grapes; Poly brominated biphenyls, poly chlorinated biphenyls, Poly chlorinated terphenyls, crocidolite; goods of a kind known as "hazardous waste"; phosphogypsum:</i>		
3824 99 31	Mixture containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens other than chlorine and fluorine	kg.	12.5%
3824 99 32	Ferrite powder	kg.	12.5%
3824 99 33	Capacitor fluids - PCB type	kg.	12.5%
3824 99 34	Dipping oil for treatment of grapes	kg.	12.5%
3824 99 35	Poly brominated biphenyls, poly chlorinated biphenyls, Poly chlorinated terphenyls, crocidolite	kg.	12.5%
3824 99 36	Goods of a kind known as "hazardous waste"	kg.	12.5%
3824 99 37	Phosphogypsum	kg.	12.5%
3824 99 38	Phosphonic Acid, Methyl-compound with (aminoimino methyl) urea (1: 1)	kg.	12.5%
3824 99 90	Other	kg.	12.5%";

(19) in Chapter 39,—

(i) in Note 2, in clause (z), after the words "propelling pencils", the words ", and monopods, bipods, tripods and similar articles" shall be inserted;

(ii) in Sub-heading Note 1, in clause (a), in sub-clause (2), after the figures "3901 30", the figures "3901 40," shall be inserted;

(iii) in heading 3901, after tariff item 3901 30 00 and the entries relating thereto, the following shall be inserted, namely:—

"3901 40 00	-	Ethylene-alpha-olefin copolymers, having a specific gravity of less than 0.94	kg.	12.5%";
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(iv) in heading 3907, for sub-heading 3907 60 and tariff items 3907 60 10 to 3907 60 90 and the entries relating thereto, the following shall be substituted, namely:—

	"	<i>Poly(ethylene terephthalate):</i>		
3907 61 00	--	Having a viscosity number of 78 ml/g or higher	kg.	12.5%
3907 69	--	<i>Other:</i>		
3907 69 10	---	Having a viscosity number less than 78ml/g but not less than 72ml/g	kg.	12.5%
3907 69 20	---	Having a viscosity number less than 72ml/g but not less than 64ml/g	kg.	12.5%
3907 69 90	---	Other	kg.	12.5%";

(v) for sub-heading 3909 30 and tariff items 3909 30 10 to 3909 30 90 and the entries relating thereto, the following shall be substituted, namely:—

" *Other amino-resins:*



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
3909 31 00 --	Poly(methylene phenyl isocyanate) (crude MDI, polymeric MDI)	kg.	12.5%
3909 39 --	Other:		
3909 39 10 ---	Poly(phenylene oxide)	kg.	12.5%
3909 39 90 ---	Other	kg.	12.5%";

(20) in Chapter 40, in heading 4011, for tariff items 4011 50 90 to 4011 99 00 and the entries relating thereto, the following shall be substituted, namely:—

"4011 50 90 ---	Other	u	12.5%
4011 70 00 -	Of a kind used on agricultural or forestry vehicles and machines	u	12.5%
4011 80 00 -	Of a kind used on construction, mining or industrial handling vehicles and machines	u	12.5%
4011 90 00 -	Other	u	12.5%";

(21) in Chapter 42,—

(i) in heading 4202,—

(a) for sub-heading 4202 22 and the entries relating thereto, the following shall be substituted, namely:—

"4202 22 -- *With outer surface of sheeting of plastics or of textile materials:*";

(b) for sub-heading 4202 32 and the entries relating thereto, the following shall be substituted, namely:—

"4202 32 -- *With outer surface of sheeting of plastics or of textile materials:*";

(c) for tariff item 4202 92 00 and the entries relating thereto, the following shall be substituted, namely:—

"4202 92 00 -- With outer surface of sheeting of plastics or of textile materials u 12.5%";

(22) in Chapter 44,—

(i) in Note 1, in clause (g), for the word "pencils", the words "pencils, and monopods, bipods, tripods and similar articles" shall be substituted;

(ii) the Sub-heading Note 2 shall be omitted;

(iii) in heading 4401,—

(a) for sub-heading 4401 10, tariff items 4401 10 10, 4401 10 90 and the entries relating thereto, the following shall be substituted, namely:—

"	<i>Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms:</i>		
4401 11 --	<i>Coniferous:</i>		
4401 11 10 ---	In logs	mt	12.5%
4401 11 90 ---	Other	mt	12.5%
4401 12 --	<i>Non-coniferous:</i>		
4401 12 10 ---	In logs	mt	12.5%
4401 12 90 ---	Other	mt	12.5%";

(b) for tariff items 4401 22 00 and 4401 31 00 and the entries relating thereto, the following shall be substituted, namely:—

"4401 22 00 --	Non-coniferous	mt	12.5%
-	<i>Sawdust and wood waste and scrap, agglomerated, in logs, briquettes, pellets or similar forms:</i>		
4401 31 00 --	Wood pellets	mt	12.5%";

(c) after tariff item 4401 39 00 and the entries relating thereto, the following shall be inserted, namely:—

"4401 40 00 -	Sawdust and wood waste and scrap, not agglomerated	mt	12.5%";
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Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
(iv) in heading 4403,—			
(a) for tariff item 4403 10 00, sub-heading 4403 20 and tariff items 4403 20 10 to 4403 41 00 and the entries relating thereto, the following shall be substituted, namely:—			
	“— <i>Treated with paint, stains, creosote or other preservatives:</i>		
4403 11 00	-- Coniferous	m <sup>3</sup>	12.5%
4403 12 00	-- Non-coniferous	m <sup>3</sup>	12.5%
	— <i>Other, coniferous:</i>		
4403 21	-- <i>Of pine (Pinus spp.), of which any cross-sectional dimension is 15 cm or more:</i>		
4403 21 10	--- Saw logs and veneer logs	m <sup>3</sup>	12.5%
4403 21 20	--- Poles, pilings and posts	m <sup>3</sup>	12.5%
4403 21 90	--- Other	m <sup>3</sup>	12.5%
4403 22	-- <i>Of pine (Pinus spp.), other:</i>		
4403 22 10	--- Saw logs and veneer logs	m <sup>3</sup>	12.5%
4403 22 20	--- Poles, pilings and posts	m <sup>3</sup>	12.5%
4403 22 90	--- Other	m <sup>3</sup>	12.5%
4403 23	-- <i>Of fir (Abies spp.) and spruce (Picea spp.), of which any cross-sectional dimension is 15 cm or more:</i>		
4403 23 10	--- Saw logs and veneer logs	m <sup>3</sup>	12.5%
4403 23 20	--- Poles, pilings and posts	m <sup>3</sup>	12.5%
4403 23 90	--- Other	m <sup>3</sup>	12.5%
4403 24	-- <i>Of fir (Abies spp.) and spruce (Picea spp.), other:</i>		
4403 24 10	--- Saw logs and veneer logs	m <sup>3</sup>	12.5%
4403 24 20	--- Poles, pilings and posts	m <sup>3</sup>	12.5%
4403 24 90	--- Other	m <sup>3</sup>	12.5%
4403 25	-- <i>Other, of which any cross-sectional dimension is 15 cm or more:</i>		
4403 25 10	--- Saw logs and veneer logs	m <sup>3</sup>	12.5%
4403 25 20	--- Poles, pilings and posts	m <sup>3</sup>	12.5%
4403 25 90	--- Other	m <sup>3</sup>	12.5%
4403 26	--- <i>Other:</i>		
4403 26 10	--- Saw logs and veneer logs	m <sup>3</sup>	12.5%
4403 26 20	--- Poles, pilings and posts	m <sup>3</sup>	12.5%
4403 26 90	--- Other	m <sup>3</sup>	12.5%
	— <i>Other, of tropical wood:</i>		
4403 41 00	-- Dark red meranti, light red meranti and meranti bakau	m <sup>3</sup>	12.5%”;
(b) for tariff item 4403 92 00 and the entries relating thereto, the following shall be substituted, namely:—			
“4403 93 00	-- Of beech ( <i>Fagus spp.</i> ), of which any cross-sectional dimension is 15 cm or more	m <sup>3</sup>	12.5%
4403 94 00	-- Of beech ( <i>Fagus spp.</i> ), other	m <sup>3</sup>	12.5%
4403 95 00	-- Of birch ( <i>Betula spp.</i> ), of which any cross-sectional dimension is 15 cm or more	m <sup>3</sup>	12.5%
4403 96 00	-- Of birch ( <i>Betula spp.</i> ), other	m <sup>3</sup>	12.5%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

4403 97 00 -- Of poplar and aspen (*Populus spp.*) m<sup>3</sup> 12.5%

4403 98 00 -- Of eucalyptus (*Eucalyptus spp.*) m<sup>3</sup> 12.5%";

(c) for tariff item 4403 99 19 to 4403 99 21 and the entries relating thereto, the following shall be substituted, namely:—

"4403 99 19 ---- Rose Wood (*Dalbergia Latifolia*) m<sup>3</sup> 12.5%

--- Sal (*Chorea robusta*, Sandalwood (*Santalum album*), Semul (*Bombax ceiba*), Walnut wood (*Juglans binata*), Anjam (*Hardwickia binata*), Sisso (*Dalbergia sisso*) and White cedar (*Dysozylum spp*) and the like:

4403 99 21 ---- Sal (*Chorea robusta*) m<sup>3</sup> 12.5%";

(d) the tariff item 4403 99 26 and the entries relating thereto shall be omitted;

(e) for tariff item 4403 99 29 and the entries relating thereto, the following shall be substituted, namely:—

"4403 99 90 --- Other m<sup>3</sup> 12.5%";

(v) in heading 4406, for tariff items 4406 10 00 and 4406 90 00 and the entries relating thereto, the following shall be substituted, namely:—

"- Not impregnated:

4406 11 00 -- Coniferous m<sup>3</sup> 12.5%

4406 12 00 -- Non-coniferous m<sup>3</sup> 12.5%

- Other:

4406 91 00 -- Coniferous m<sup>3</sup> 12.5%

4406 92 00 -- Non-coniferous m<sup>3</sup> 12.5%";

(vi) in heading 4407,—

(a) for sub-heading 4407 10, tariff items 4407 10 10 to 4407 21 00 and the entries relating thereto, the following shall be substituted, namely:—

"- Coniferous:

4407 11 00 -- Of pine (*Pinus spp.*) m<sup>3</sup> Nil

4407 12 00 -- Of fir (*Abies spp.*) and Spruce (*Picea spp.*) m<sup>3</sup> Nil

4407 19 -- Other:

4407 19 10 --- Douglas fir (*Pseudotsuga menziesii*) m<sup>3</sup> Nil

4407 19 90 --- Other m<sup>3</sup> Nil

- Of tropical wood:

4407 21 00 -- Mahogany (*Swietenia spp.*) m<sup>3</sup> Nil";

(b) after tariff item 4407 95 00 and the entries relating thereto, the following shall be inserted, namely:—

"4407 96 00 -- Of birch (*Betula spp.*) m<sup>3</sup> Nil

4407 97 00 -- Of poplar and aspen (*Populus spp.*) m<sup>3</sup> Nil";

(c) tariff item 4407 99 10 and the entries relating thereto shall be omitted;

(vii) in heading 4408,—

(a) for tariff items 4408 10 90 to sub-heading 4408 31, and the entries relating thereto, the following shall be substituted, namely:—

"4408 10 90 --- Other kg. 12.5%

- Of tropical wood:

4408 31 -- Of Dark red meranti, Light red meranti, Meranti bakau:";



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
(b) after tariff item 4409 21 00 and the entries relating thereto, the following shall be inserted, namely:—			
“4409 22 00	-- Of tropical wood	kg.	12.5%”;
(viii) in heading 4412,—			
(a) for sub-heading 4412 31 and the entries relating thereto, the following shall be substituted, namely:—			
“4412 31	-- <i>With at least one outer ply of tropical wood:”;</i>		
(b) for sub-heading 4412 32, tariff items 4412 32 10 to 4412 32 90, sub-heading 4412 39, tariff items 4412 39 10 to 4412 39 90 and the entries relating thereto, the following shall be substituted, namely:—			
“4412 33	-- <i>Other, with at least one outer ply of non-coniferous wood of the species alder (Alnus spp.), ash (Fraxinus spp.), beech (Fagus spp.), birch (Betula spp.), cherry (Prunus spp.), chestnut (Castanea spp.), elm (Ulmus spp.), eucalyptus (Eucalyptus spp.), hickory (Carya spp.), horse chestnut (Aesculus spp.), lime (Tilia spp.), maple (Acer spp.), oak (Quercus spp.), plane tree (Platanus spp.), poplar and aspen (Populus spp.), robinia (Robinia spp.), tulipwood (Liriodendron spp.) or walnut (Juglans spp.):</i>		
4412 33 10	--- Decorative plywood	m <sup>3</sup>	12.5%
4412 33 20	--- Tea chest panels, shooks whether or not packed in sets	m <sup>3</sup>	12.5%
4412 33 30	--- Marine and aircraft plywood	m <sup>3</sup>	12.5%
4412 33 40	--- Cutting and trimmings of plywood of width not exceeding 5cm	m <sup>3</sup>	12.5%
4412 33 90	--- Other	m <sup>3</sup>	12.5%
4412 34	-- <i>Other, with at least one outer ply of non-coniferous wood not specified under sub-heading 4412 33:</i>		
4412 34 10	--- Decorative plywood	m <sup>3</sup>	12.5%
4412 34 20	--- Tea chest panels, shooks whether or not packed in sets	m <sup>3</sup>	12.5%
4412 34 30	--- Marine and aircraft plywood	m <sup>3</sup>	12.5%
4412 34 40	--- Cutting and trimmings of plywood of width not exceeding 5cm	m <sup>3</sup>	12.5%
4412 34 90	--- Other	m <sup>3</sup>	12.5%
4412 39	-- <i>Other, with both outer plies of coniferous wood:</i>		
4412 39 10	--- Decorative plywood	m <sup>3</sup>	12.5%
4412 39 20	--- Tea chest panels, shooks whether or not packed in sets	m <sup>3</sup>	12.5%
4412 39 30	--- Marine and aircraft plywood	m <sup>3</sup>	12.5%
4412 39 40	--- Cutting and trimmings of plywood of width not exceeding 5cm	m <sup>3</sup>	12.5%
4412 39 90	--- Other	m <sup>3</sup>	12.5%”;
(ix) in heading 4418, for tariff items 4418 71 00 to 4418 90 00 and the entries relating thereto, the following shall be substituted namely:—			
“-	<i>Assembled flooring panels:</i>		
4418 73 00	-- Of bamboo or with at least the top layer (wear layer) of bamboo	kg.	12.5%
4418 74 00	-- Other, for mosaic floors	kg.	12.5%
4418 75 00	-- Other, multilayer	kg.	12.5%
4418 79 00	-- Other	kg.	12.5%
-	<i>Other:</i>		
4418 91 00	-- Of bamboo	kg.	12.5%
4418 99 00	-- Other	kg.	12.5%”;



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

(x) for heading 4419, sub-heading 4419 00, tariff items 4419 00 10 and 4419 00 20 and the entries relating thereto, the following shall be substituted, namely:—

4419		<b>TABLEWARE AND KITCHENWARE, OF WOOD</b>		
	-	<i>Of bamboo:</i>		
4419 11 00	--	Bread boards, chopping boards and similar boards	kg.	12.5%
4419 12 00	--	Chopsticks	kg.	12.5%
4419 19 00	--	Other	kg.	12.5%
4419 90	-	<i>Other:</i>		
4419 90 10	---	Bread boards, chopping boards and similar boards	kg.	12.5%
4419 90 20	---	Chopsticks	kg.	12.5%
4419 90 90	---	Other	kg.	12.5%;

(xi) in heading 4421, for sub-heading 4421 90, tariff items 4421 90 11 to 4421 90 90 and the entries relating thereto, the following shall be substituted, namely:—

	-	<i>Other:</i>		
4421 91	--	<i>Of bamboo:</i>		
	---	<i>Spools, cops, bobbins, sewing thread reels and the like of turned wood:</i>		
4421 91 11	----	For cotton machinery	kg.	12.5%
4422 91 12	----	For jute machinery	kg.	12.5%
4423 91 13	----	For silk regenerated and synthetic fibre machinery	kg.	12.5%
4424 91 14	----	For other machinery	kg.	12.5%
4421 91 19	----	Other	kg.	12.5%
4421 91 20	---	Wood Paving Blocks	kg.	12.5%
4421 91 30	---	Match splints	kg.	12.5%
4421 91 40	---	Pencil slats	kg.	12.5%
4421 91 50	---	Parts of wood, namely oars, paddles and rudders for ships, boats and other similar floating structures	kg.	12.5%
4421 91 60	---	Parts of domestic decorative articles used as tableware and kitchenware	kg.	12.5%
4421 91 70	---	Articles of densified wood not included or specified elsewhere	kg.	12.5%
4421 91 90	---	Other	kg.	12.5%
4421 99	--	<i>Other:</i>		
	---	<i>Spools, cops, bobbins, sewing thread reels and the like of turned wood:</i>		
4421 99 11	----	For cotton machinery	kg.	12.5%
4421 99 12	----	For jute machinery	kg.	12.5%
4421 99 13	----	For silk regenerated and synthetic fibre machinery	kg.	12.5%
4421 99 14	----	For other machinery	kg.	12.5%
4421 99 19	----	Other	kg.	12.5%
4421 99 20	---	Wood Paving Blocks	kg.	12.5%
4421 99 30	---	Match splints	kg.	12.5%
4421 99 40	---	Pencil slats	kg.	12.5%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
4421 99 50 ---	Parts of wood, namely oars, paddles and rudders for ships, boats and other similar floating structures	kg.	12.5%
4421 99 60 ---	Parts of domestic decorative articles used as tableware and kitchenware	kg.	12.5%
4421 99 70 ---	Articles of densified wood not included or specified elsewhere	kg.	12.5%
4421 99 90 ---	Other	kg.	12.5%";

(23) in Chapter 48,—

(i) in Note 4, after the words, figures and letters "more than 65g/m<sup>2</sup>", the words, brackets, figures and letters", and apply only to paper: (a) in strips or rolls of a width exceeding 28cm; or (b) in rectangular (including square) sheets with one side exceeding 28cm and the other side exceeding 15cm in the unfolded state" shall be inserted;

(ii) in Note 8, the figures and word "4801, and" shall be omitted;

(24) in Chapter 54,—

(i) in heading 5402, for the entry in column (2) occurring after the entry against the heading 5402, the following entry shall be substituted, namely:—

— *High tenacity yarn of nylon or other polyamides, whether or not textured: "*

(ii) for sub-heading 5402 20 and the entries relating thereto, the following shall be substituted, namely:—

"5402 20 -- *High tenacity yarn of polyesters, whether or not textured: "*

(iii) after tariff item 5402 52 00 and the entries relating thereto, the following shall be inserted, namely:—

"5402 53 00 -- Of polypropylene kg. 12.5%";

(iv) after tariff item 5402 62 00 and the entries relating thereto, the following shall be inserted, namely:—

"5402 63 00 -- Of polypropylene kg. 12.5%";

(25) in Chapter 55,—

(i) for heading 5502, sub-heading 5502 00, tariff items 5502 10 00 to 5502 90 00 and the entries relating thereto, the following shall be substituted, namely:—

"5502 **ARTIFICIAL FILAMENT TOW**

5502 10 -- *Of cellulose acetate:*

5502 10 10 --- Viscose rayon tow kg. 12.5%

5502 10 90 --- Other kg. 12.5%

5502 90 -- *Other:*

5502 90 10 --- Viscose rayon tow kg. 12.5%

5502 90 90 --- Other kg. 12.5%";

(ii) after tariff item 5506 30 00 and the entries relating thereto, the following shall be inserted, namely:—

"5506 40 00 - Of polypropylene kg. 12.5%";

(26) in Chapter 56, for heading 5601, sub-heading 5601 21 and the entries relating thereto, the following shall be substituted, namely:—

"5601 **WADDING OF TEXTILE MATERIALS AND ARTICLES THEREOF;  
TEXTILE FIBRES, NOT EXCEEDING 5MM IN LENGTH (FLOCK),  
TEXTILE DUST AND MILL NEPS**

- *Wadding of textile materials and articles thereof:*

5601 21 -- *Of cotton: "*

(27) in Chapter 57, in heading 5704, after tariff item 5704 10 00 and the entries relating thereto, the following shall be inserted, namely:—

"5704 20 - *Tiles, having a maximum surface area exceeding 0.3 m<sup>2</sup> but not exceeding 1 m<sup>2</sup>:*



Tariff Item		Description of goods	Unit	Rate of Duty
(1)		(2)	(3)	(4)
5704 20 10	---	Cotton	m <sup>2</sup>	12.5%
5704 20 20	---	Woollen, other than artware	m <sup>2</sup>	12.5%
5704 20 90	---	Other	m <sup>2</sup>	12.5%";

(28) in Chapter 60,—

(i) after Note 3, the following shall be inserted, namely:—

“Sub-heading Note:

Sub-heading 6005 35 covers fabrics of polyethylene monofilament or of polyester multifilament, weighing not less than 30g/m<sup>2</sup> and not more than 55g/m<sup>2</sup>, having a mesh size of not less than 20 holes/cm<sup>2</sup> and not more than 100 holes/cm<sup>2</sup>, and impregnated or coated with alpha-cypermethrin (ISO), chlorfenapyr (ISO), deltamethrin (INN, ISO), lambda-cyhalothrin (ISO), permethrin (ISO) or pirimiphosmethyl (ISO).”;

(ii) for tariff items 6005 31 00 to 6005 34 00 and the entries relating thereto, the following shall be substituted, namely:—

“6005 35 00	--	Fabrics specified in Sub-heading Note 1 to this Chapter	kg.	12.5%
6005 36 00	--	Other, unbleached or bleached	kg.	12.5%
6005 37 00	--	Other, dyed	kg.	12.5%
6005 38 00	--	Other, of yarns of different colours	kg.	12.5%
6005 39 00	--	Other, printed	kg.	12.5%”;

(29) in Chapter 63,—

(i) after Note 3, the following shall be inserted, namely:—

“Sub-heading Note:

Sub-heading 6304 20 covers articles made from fabrics, impregnated or coated with alpha-cypermethrin (ISO), chlorfenapyr (ISO), deltamethrin (INN, ISO), lambda-cyhalothrin (ISO), permethrin (ISO) or pirimiphosmethyl (ISO).”;

(ii) in heading 6304, after tariff item 6304 19 90 and the entries relating thereto, the following shall be inserted, namely:—

“6304 20 00	-	Bed nets, of warp knit fabrics specified in Sub-heading Note 1 to this Chapter	u	12.5%”;
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(30) in Chapter 68, in Note 1, for clause (m), the following clause shall be substituted, namely:—

“(m) articles of heading 9602, if made of materials specified in Note 2 (b) to Chapter 96, or of heading 9606 (for example, buttons), of heading 9609 (for example, slate pencils), heading 9610 (for example, drawing slates) or of heading 9620 (monopods, bipods, tripods and similar articles); or”;

(31) in Chapter 69,—

(i) for heading 6907, sub-heading 6907 10, tariff items 6907 10 10 and 6907 10 90, sub-heading 6907 90, tariff items 6907 90 10 and 6907 90 90 and the entries relating thereto, the following shall be substituted, namely:—

“6907		<b>CERAMIC FLAGS AND PAVING, HEARTH OR WALL TILES; CERAMIC MOSAIC CUBES AND THE LIKE, WHETHER OR NOT ON A BACKING; FINISHING CERAMICS</b>		
-		<i>Flags and paving, hearth or wall tiles, other than those of sub-headings 6907 30 and 6907 40:</i>		
6907 21 00	--	Of a water absorption coefficient by weight not exceeding 0.5%	m <sup>2</sup>	12.5%
6907 22 00	--	Of a water absorption coefficient by weight exceeding 0.5% but not exceeding 10 %	m <sup>2</sup>	12.5%
6907 23 00	--	Of a water absorption coefficient by weight exceeding 10%	m <sup>2</sup>	12.5%
6907 30	-	<i>Mosaic cubes and the like, other than those of sub-heading 6907 40:</i>		
6907 30 10	---	Mosaic cubes and the like, other than those of sub-heading 6907 40	m <sup>2</sup>	12.5%
6907 40	-	<i>Finishing ceramics:</i>		
6907 40 10	---	Finishing ceramics	m <sup>2</sup>	12.5%”;



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

(ii) the heading 6908, sub-heading 6908 10, tariff items 6908 10 10 to 6908 10 90, sub-heading 6908 90 and tariff items 6908 90 10 to 6908 90 90 and the entries relating thereto shall be omitted;

(32) in Section XV, in Note 1, for clause (m), the following clause shall be substituted, namely:—

- “(m) hand sieves, buttons, pens, pencil-holders, pen nibs, monopods, bipods, tripods and similar articles or other articles of Chapter 96 (miscellaneous manufactured articles); or”;

(33) in Chapter 74, in Note 1, for clause (c), the following clause shall be substituted, namely:—

- “(c) *Master alloys*  
Alloys containing with other elements more than 10 per cent. by weight, of copper not usefully malleable and commonly used as an additive in the manufacture of other alloys or as de-oxidants, de-sulphuring agents or for similar uses in the metallurgy of non-ferrous metals. However, copper phosphide (phosphor copper) containing more than 15% by weight of phosphorous falls in heading 2853.”;

(34) in Chapter 82, for the entry in column (2) occurring against the heading 8205, for the words “MACHINE TOOLS”, the words “MACHINE-TOOLS OR WATER-JET CUTTING MACHINES” shall be substituted;

(35) in Chapter 83, for the entry occurring against heading 8308, the following shall be substituted, namely:—

- “8308 **CLASPS, FRAMES WITH CLASPS, BUCKLES, BUCKLE-CLASPS, HOOKS, EYES, EYELETS AND THE LIKE, OF BASE METAL, OF A KIND USED FOR CLOTHING OR CLOTHING ACCESSORIES, FOOTWEAR, JEWELLERY, WRIST WATCHES, BOOKS, AWNINGS, LEATHER GOODS, TRAVEL GOODS OR SADDLERY OR FOR OTHER MADE UP ARTICLES; TUBULAR OR BIFURCATED RIVETS, OF BASE METAL; BEADS AND SPANGLES, OF BASE METAL”;**

(36) in Section XVI, in Note 1, for clause (q), the following clause shall be substituted, namely:—

- “(q) typewriter or similar ribbons, whether or not on spools or in cartridges (classified according to their constituent material, or in heading 9612 if inked or otherwise prepared for giving impressions), or monopods, bipods, tripods and similar articles, of heading 9620.”;

(37) in Chapter 84,—

(i) in Note 1,—

(A) in clause (f), the word “or” shall be omitted;

(B) after clause (f), the following clause shall be inserted, namely:—

“(g) radiators for the articles of Section XVII; or”;

(C) the existing clause (g) shall be re-lettered as (h);

(ii) in Note 2, in clause (e), for the words “machinery or plant”, the words “machinery, plant or laboratory equipment” shall be substituted;

(iii) in Note 9, for clause (A), the following clause shall be substituted, namely:—

- “(A) Notes 9(a) and 9(b) to Chapter 85 also apply with respect to the expressions “semiconductor devices” and “electronic integrated circuits”, respectively, as used in this Note and in heading 8486. However, for the purposes of this Note and of heading 8486, the expression “semiconductor devices” also covers photosensitive semiconductor devices and light-emitting diodes (LED).”;

(iv) in Sub-heading Notes,—

(A) the following new Sub-heading Note 1 shall be inserted, namely:—

- ‘1. For the purposes of sub-heading 8465 20, the term “machining centres” applies only to machine-tools for working wood, cork, bone, hard rubber, hard



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

plastics or similar hard materials, which can carry out different types of machining operations by automatic tool change from a magazine or the like in conformity with a machining programme.”;

(B) the existing Sub-heading Note 1 shall be re-numbered as Sub-heading Note 2 and after Sub-heading Note 2 as so re-numbered, the following Sub-heading Note shall be inserted, namely:—

- ‘3. For the purposes of sub-heading 8481 20, the expression “valves for oleohydraulic or pneumatic transmissions” means valves which are used specifically in the transmission of “fluid power” in a hydraulic or pneumatic system, where the energy source is supplied in the form of pressurised fluids (liquid or gas). These valves may be of any type (for example, pressure-reducing type, check type). Sub-heading 8481 20 takes precedence over all other sub-headings of heading 8481.”;

(C) the existing Sub-heading Note 2 shall be re-numbered as Sub-heading Note 4;

(v) in heading 8415, for sub-heading 8415 10 and the entries relating thereto, the following shall be substituted, namely:—

‘8415 10 - *Of a kind designed to be fixed to a window, wall, ceiling or floor, self-contained or “split-system”;*

(vi) in heading 8424,—

(a) after tariff item 8424 30 00 and the entries relating thereto, the following shall be inserted, namely:—

“-	<i>Agricultural or horticultural sprayers:</i>		
8424 41 00	-- Portable sprayers	u	Nil
8424 49 00	-- Other	u	Nil”;

(b) for tariff item 8424 81 00 and the entries relating thereto, the following shall be substituted, namely:—

“8424 82 00	-- Agricultural or horticultural	u	Nil”;
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(vii) in heading 8432,—

(a) for tariff item 8432 30 00 and the entries relating thereto, the following shall be substituted, namely:—

“-	<i>Seeders, planters and transplanters:</i>		
8432 31 00	-- No-till direct seeders, planters and transplanters	u	Nil
8432 39 00	-- Other	u	Nil”;

(b) for tariff item 8432 40 00 and the entries relating thereto, the following shall be substituted, namely:—

“-	<i>Manure spreaders and fertiliser distributors:</i>		
8432 41 00	-- Manure spreaders	u	Nil
8432 42 00	-- Fertiliser distributors	u	Nil”;

(viii) for heading 8442 and the entries relating thereto, the following shall be substituted, namely:—

“8442 **MACHINERY, APPARATUS AND EQUIPMENT (OTHER THAN THE MACHINES OF HEADINGS 8456 TO 8465) FOR PREPARING OR MAKING PLATES, PRINTING COMPONENTS; PLATES, CYLINDERS AND LITHOGRAPHIC STONES, PREPARED FOR PRINTING PURPOSES (FOR EXAMPLE, PLANED, GRAINED OR POLISHED)”;**

(ix) in heading 8456,—

(a) for tariff item 8456 10 00 and the entries relating thereto, the following shall be substituted, namely:—

“-	<i>Operated by laser or other light or photon beam processes:</i>		
8456 11 00	-- Operated by laser	u	12.5%
8456 12 00	-- Operated by other light or photon beam processes	u	12.5%”;



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

(b) after tariff item 8456 30 00 and the entries relating thereto, the following shall be inserted, namely:—

8456 40 00	- Operated by plasma arc processes	u	12.5%
8456 50 00	- Water-jet cutting machines	u	12.5%”;

(x) for sub-heading 8459 40, tariff items 8459 40 10 to 8459 40 90 and the entries relating thereto, the following shall be substituted, namely:—

“-	<i>Other boring machines:</i>		
8459 41	-- <i>Numerically controlled:</i>		
8459 41 10	--- Jig boring machines, horizontal	u	12.5%
8459 41 20	--- Fine boring machines, horizontal	u	12.5%
8459 41 30	--- Fine boring machines, vertical	u	12.5%
8459 41 90	--- Other	u	12.5%
8459 49	-- <i>Other:</i>		
8459 49 10	--- Jig boring machines, horizontal	u	12.5%
8459 49 20	--- Fine boring machines, horizontal	u	12.5%
8459 49 30	--- Fine boring machines, vertical	u	12.5%
8459 49 90	--- Other	u	12.5%”;

(xi) for heading 8460, tariff items 8460 11 00 to 8460 21 00, sub-heading 8460 29, tariff items 8460 29 10 to 8460 29 90 and the entries relating thereto, the following shall be substituted, namely:—

“8460	<b>MACHINE-TOOLS FOR DEBURRING, SHARPENING, GRINDING, HONING, LAPPING, POLISHING OR OTHERWISE FINISHING METAL, OR CERMETS BY MEANS OF GRINDING STONES, ABRASIVES OR POLISHING PRODUCTS, OTHER THAN GEAR CUTTING, GEAR GRINDING OR GEAR FINISHING MACHINES OF HEADING 8461</b>		
-	<i>Flat-surface grinding machines:</i>		
8460 12 00	-- Numerically controlled	u	12.5%
8460 19 00	-- Other	u	12.5%
-	<i>Other grinding machines:</i>		
8460 22 00	-- Centreless grinding machines, numerically controlled	u	12.5%
8460 23 00	-- Other cylindrical grinding machines, numerically controlled	u	12.5%
8460 24 00	-- Other, numerically controlled	u	12.5%
8460 29	-- <i>Other:</i>		
8460 29 10	--- Cylindrical grinders	u	12.5%
8460 29 20	--- Internal grinders	u	12.5%
8460 29 30	--- Centreless grinders	u	12.5%
8460 29 40	--- Profile grinders	u	12.5%
8460 29 90	--- Other	u	12.5%”;

(xii) after tariff item 8465 10 00 and the entries relating thereto, the following shall be inserted, namely:—

8465 20 00	- Machining centres	u	12.5%”;
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(xiii) in heading 8466,—

(a) for heading 8466, and the entries relating thereto, the following shall be substituted, namely:—



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

"8466 PARTS AND ACCESSORIES SUITABLE FOR USE SOLELY OR PRINCIPALLY WITH THE MACHINES OF HEADINGS 8456 TO 8465 INCLUDING WORK OR TOOL HOLDERS, SELF-OPENING DIEHEADS, DIVIDING HEADS AND OTHER SPECIAL ATTACHMENTS FOR THE MACHINES; TOOL HOLDERS FOR ANY TYPE OF TOOL, FOR WORKING IN THE HAND";

(b) for sub-heading 8466 30 and the entries relating thereto, the following shall be substituted, namely:—

"8466 30 - *Dividing heads and other special attachments for machines:*";

(xiv) the heading 8469, sub-heading 8469 00, tariff items 8469 00 10 to 8469 00 90 and the entries relating thereto shall be omitted;

(xv) in heading 8472, for tariff item 8472 90 90 and the entries relating thereto the following shall be substituted, namely:—

	"--- Other:		
8472 90 91	----- Word-processing machines	u	12.5%
8472 90 92	----- Automatic typewriters	u	12.5%
8472 90 93	----- Braille typewriters, electric	u	Nil
8472 90 94	----- Braille typewriters, non-electric	u	Nil
8472 90 95	----- Other typewriters, electric or non-electric	u	12.5%
8472 90 99	----- Other	u	12.5%";

(xvi) in heading 8473,—

(a) for heading 8473 and the entries relating thereto, the following shall be substituted, namely:—

"8473 PARTS AND ACCESSORIES (OTHER THAN COVERS, CARRYING CASES AND THE LIKE) SUITABLE FOR USE SOLELY OR PRINCIPALLY WITH MACHINES OF HEADINGS 8470 TO 8472";

(b) the tariff item 8473 10 00 and the entries relating thereto shall be omitted;

(c) for tariff item 8473 50 00 and the entries relating thereto, the following shall be substituted, namely:—

"8473 50 00	- Parts and accessories equally suitable for use with the machines of two or more of the headings 8470 to 8472	u	12.5%";
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(38) in Chapter 85,—

(i) in the Notes, after Note 2, the following shall be inserted, namely:—

'3. For the purposes of heading 8507, the expression "electric accumulators" includes those presented with ancillary components which contribute to the accumulator's function of storing and supplying energy or protect it from damage, such as electrical connectors, temperature control devices (for example, thermistors) and circuit protection devices. They may also include a portion of the protective housing of the goods in which they are to be used.';

(ii) the existing Notes 3, 4, 5, 6, 7, 8 and 9 shall respectively be re-numbered as 4, 5, 6, 7, 8, 9 and 10;

(iii) in Note 9 as so re-numbered, in clause (b), after sub-clause (iii), the following new sub-clause shall be inserted, namely:—

'(iv) Multi-component integrated circuits (MCOs): a combination of one or more monolithic, hybrid, or multi-chip integrated circuits with at least one of the following components: silicon-based sensors, actuators, oscillators, resonators or combinations thereof, or components performing the functions of articles classifiable under heading 8532, 8533, 8541, or inductors classifiable under heading 8504, formed to all intents and purposes indivisibly into a single body like an



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

integrated circuit, as a component of a kind used for assembly onto a printed circuit board (PCB) or other carrier, through the connecting of pins, leads, balls, lands, bumps, or pads.

For the purpose of this definition:

(1) "Components" may be discrete, manufactured independently then assembled onto the rest of the MCO, or integrated into other components.

(2) "Silicon based" means built on a silicon substrate, or made of silicon materials, or manufactured onto integrated circuit die.

(3) (a) "Silicon based sensors" consist of microelectronic or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of detecting physical or chemical quantities and transducing these into electric signals, caused by resulting variations in electric properties or displacement of a mechanical structure. "Physical or chemical quantities" relates to real world phenomena, such as pressure, acoustic waves, acceleration, vibration, movement, orientation, strain, magnetic field strength, electric field strength, light, radioactivity, humidity, flow, chemicals concentration, etc.

(b) "Silicon based actuators" consist of microelectronic and mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of converting electrical signals into physical movement.

(c) "Silicon based resonators" are components that consist of microelectronic or mechanical structures that are created in the mass or on the surface of a semiconductor and have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures in response to an external input.

(d) "Silicon based oscillators" are active components that consist of microelectronic or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures.

(iv) in heading 8528, for tariff items 8528 41 00 to 8528 69 00 and the entries relating thereto, the following shall be substituted, namely:—

8528 42 00	--	Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471	u	12.5%
8528 49 00	--	Other	u	12.5%
	-	Other monitors:		
8528 52 00	--	Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471	u	12.5%
8528 59 00	--	Other	u	12.5%
	-	Projectors:		
8528 62 00	--	Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471	u	12.5%
8528 69 00	--	Other	u	12.5%";

(v) for tariff item 8531 20 00 and the entries relating thereto, the following shall be substituted, namely:—

8531 20 00	-	Indicator panels incorporating liquid crystal devices (LCD) or light-emitting diodes (LED)	u	12.5%";
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(vi) in heading 8539,—

(a) for heading 8539 and the entries relating thereto, the following shall be substituted, namely:—

8539		ELECTRIC FILAMENT OR DISCHARGE LAMPS INCLUDING SEALED BEAM LAMP UNITS AND ULTRA-VIOLET OR INFRA-RED LAMPS, ARC LAMPS; LIGHT-EMITTING DIODE (LED) LAMPS";		
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(b) after tariff item 8539 49 00 and the entries relating thereto, the following shall be inserted, namely:—

8539 50 00	-	Light-emitting diode (LED) lamps	u	12.5%";
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Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
(vii) in heading 8541,—			
(a) for heading 8541 and the entries relating thereto, the following shall be substituted, namely:—			
“8541	<b>DIODES, TRANSISTORS AND SIMILAR SEMI-CONDUCTOR DEVICES; PHOTSENSITIVE SEMI-CONDUCTOR DEVICES; INCLUDING PHOTO VOLTAIC CELLS, WHETHER OR NOT ASSEMBLED IN MODULES OR MADE UP INTO PANELS; LIGHT-EMITTING DIODES (LED); MOUNTED PIEZO-ELECTRIC CRYSTALS”;</b>		
(b) for tariff item 8541 10 00 and the entries relating thereto, the following shall be substituted, namely:—			
“8541 10 00	- Diodes, other than photosensitive or light-emitting diodes(LED)	u	12.5%”;
(c) for sub-heading 8541 40 and the entries relating thereto, the following shall be substituted, namely:—			
“8541 40	- <i>Photosensitive semi-conductor devices, including photo voltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED);</i> ”;		”;
(39) in Section XVII, in Note 2, for clause (e), the following clause shall be substituted, namely:—			
“(e)	machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483;”;		
(40) in Chapter 87,—			
(i) in heading 8701,—			
(a) for tariff item 8701 10 00, the following shall be substituted, namely:—			
“8701 10 00	- Single axle tractors	u	12.5%”;
(b) for sub-heading 8701 90, tariff items 8701 90 10 and 8701 90 90 and the entries relating thereto, the following shall be substituted, namely:—			
“	<i>Other, of an engine power:</i>		
8701 91 00	-- Not exceeding 18 kW	u	12.5%
8701 92 00	-- Exceeding 18 kW but not exceeding 37 kW	u	12.5%
8701 93 00	-- Exceeding 37 kW but not exceeding 75 kW	u	12.5%
8701 94 00	-- Exceeding 75 kW but not exceeding 130 kW	u	12.5%
8701 95 00	-- Exceeding 130 kW	u	12.5%”;
(ii) in heading 8702, for sub-heading 8702 10, tariff items 8702 10 11 to 8702 10 99, sub-heading 8702 90, tariff items 8702 90 11 to 8702 90 99, the following shall be substituted, namely:—			
“8702 10	- <i>With only compression-ignition internal combustion piston engine (diesel or semi-diesel):</i>		
	--- <i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 10 11	---- Integrated monocoque vehicle, air-conditioned	u	27%
8702 10 12	---- Integrated monocoque vehicle, non air-conditioned	u	27%
8702 10 18	---- Other, air-conditioned	u	27%
8702 10 19	---- Other, non air-conditioned	u	27%
	--- <i>Other:</i>		
8702 10 21	---- Integrated monocoque vehicle, air-conditioned	u	12.5%
8702 10 22	---- Integrated monocoque vehicle, non air-conditioned	u	12.5%
8702 10 28	---- Other, air-conditioned	u	12.5%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
8702 10 29	Other, non air-conditioned	u	12.5%
8702 20	<i>With both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion:</i>		
	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 20 11	Integrated monocoque vehicle, air-conditioned	u	27%
8702 20 12	Integrated monocoque vehicle, non air-conditioned	u	27%
8702 20 18	Other, air-conditioned	u	27%
8702 20 19	Other, non air-conditioned	u	27%
	<i>Other:</i>		
8702 20 21	Integrated monocoque vehicle, air-conditioned	u	12.5%
8702 20 22	Integrated monocoque vehicle, non air-conditioned	u	12.5%
8702 20 28	Other, air-conditioned	u	12.5%
8702 20 29	Other, non air-conditioned	u	12.5%
8702 30	<i>With both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion:</i>		
	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 30 11	Integrated monocoque vehicle, air-conditioned	u	27%
8702 30 12	Integrated monocoque vehicle, non air-conditioned	u	27%
8702 30 18	Other, air-conditioned	u	27%
8702 30 19	Other, non air-conditioned	u	27%
	<i>Other:</i>		
8702 30 21	Integrated monocoque vehicle, air-conditioned	u	12.5%
8702 30 22	Integrated monocoque vehicle, non air-conditioned	u	12.5%
8702 30 28	Other, air-conditioned	u	12.5%
8702 30 29	Other, non air-conditioned	u	12.5%
8702 40	<i>With only electric motor for propulsion:</i>		
	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 40 11	Integrated monocoque vehicle, air-conditioned	u	12.5%
8702 40 12	Integrated monocoque vehicle, non air-conditioned	u	12.5%
8702 40 18	Other, air-conditioned	u	12.5%
8702 40 19	Other, non air-conditioned	u	12.5%
	<i>Other:</i>		
8702 40 21	Integrated monocoque vehicle, air-conditioned	u	12.5%
8702 40 22	Integrated monocoque vehicle, non air-conditioned	u	12.5%
8702 40 28	Other, air-conditioned	u	12.5%
8702 40 29	Other, non air-conditioned	u	12.5%
8702 90	<i>Other:</i>		
	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		



Tariff Item		Description of goods	Unit	Rate of Duty
(1)		(2)	(3)	(4)
8702 90 11	----	Integrated monocoque vehicle, air-conditioned	u	27%
8702 90 12	----	Integrated monocoque vehicle, non air-conditioned	u	27%
8702 90 18	----	Other, air-conditioned	u	27%
8702 90 19	----	Other, non air-conditioned	u	27%
	---	<i>Other:</i>		
8702 90 21	----	Integrated monocoque vehicle, air-conditioned	u	27%
8702 90 22	----	Integrated monocoque vehicle, non air-conditioned	u	27%
8702 90 28	----	Other, air-conditioned	u	27%
8702 90 29	----	Other, non air-conditioned	u	27%";

(iii) in heading 8703,—

(a) in the entry in column (2) occurring after tariff item 8703 10 90 and the entries relating thereto, after the word "with", the word "only" shall be inserted;

(b) in the entry in column (2) occurring after tariff item 8703 24 99 and the entries relating thereto, for the words "with compression ignition", the words "with only compression-ignition" shall be substituted;

(c) the tariff items 8703 31 20 and 8703 32 20 and the entries relating thereto shall be omitted;

(d) after tariff item 8703 33 99 and the entries relating thereto, the following shall be inserted, namely:—

"8703 40	-	<i>Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power:</i>		
8703 40 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	30%
8703 40 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	30%
8703 40 30	---	Motor cars	u	30%
8703 40 40	---	Three-wheeled vehicles	u	24%
8703 40 90	---	Other	u	30%
8703 50	-	<i>Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power:</i>		
8703 50 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	30%
8703 50 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	30%
8703 50 30	---	Motor cars	u	30%
8703 50 40	---	Three-wheeled vehicles	u	24%
8703 50 90	---	Other	u	30%
8703 60	-	<i>Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power:</i>		
8703 60 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	30%
8703 60 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	30%
8703 60 30	---	Motor cars	u	30%



Tariff Item		Description of goods	Unit	Rate of Duty
(1)		(2)	(3)	(4)
8703 60 40	---	Three-wheeled vehicles	u	24%
8703 60 90	---	Other	u	30%
8703 70	-	<i>Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power:</i>		
8703 70 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	30%
8703 70 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	30%
8703 70 30	---	Motor cars	u	30%
8703 70 40	---	Three-wheeled vehicles	u	24%
8703 70 90	---	Other	u	30%
8703 80	-	<i>Other vehicles, with only electric motor for propulsion:</i>		
8703 80 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	12.5%
8703 80 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	12.5%
8703 80 30	---	Motor cars	u	12.5%
8703 80 40	---	Three-wheeled vehicles	u	12.5%
8703 80 90	---	Other	u	30%";

(e) for sub-heading 8703 90, tariff items 8703 90 10 and 8703 90 90 and the entries relating thereto, the following shall be substituted, namely:—

*8703 90 00	-	Other	u	30%";
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(iv) in heading 8711,—

(a) after tariff item 8711 50 00 and the entries relating thereto, the following shall be inserted, namely:—

*8711 60	-	<i>With electric motor for propulsion:</i>		
8711 60 10	---	Motor cycles	u	12.5%
8711 60 20	---	Scooters	u	12.5%
8711 60 30	---	Mopeds	u	12.5%
8711 60 90	---	Others	u	12.5%";

(b) for sub-heading 8711 90, tariff items 8711 90 10 to 8711 90 99 and the entries relating thereto, the following shall be substituted, namely:—

*8711 90	-	<i>Other:</i>		
8711 90 10	---	Side cars	u	12.5%
8711 90 90	---	Other	u	12.5%";

(41) in Chapter 90,—

(i) in Note 1,—

(A) in clause (g), after the word "machine-tools", the words "or water-jet cutting machines" shall be inserted;

(B) after clause (k), the following clause shall be inserted, namely:—

"(l) monopods, bipods, tripods and similar articles, of heading 9620,";

(C) the existing clauses (l) and (m) shall respectively be re-lettered as (m) and (n);

(ii) in heading 9006, the tariff item 9006 10 00 and the entries relating thereto shall be omitted;



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

(42) in Chapter 92, in Note 1, for clause (d), the following clause shall be substituted, namely:—

“(d) brushes for cleaning musical instruments (heading 9603), or monopods, bipods, tripods and similar articles (heading 9620); or”;

(43) in Chapter 94,—

(i) in Note 1,—

(A) in clause (k), the word “or” shall be omitted;

(B) in clause (l), the word “or” shall be inserted at the end;

(C) after clause (l), the following clause shall be inserted, namely:—

“(m) monopods, bipods, tripods and similar articles (heading 9620).”;

(ii) for tariff item 9401 51 00 and the entries relating thereto, the following shall be substituted, namely:—

“9401 52 00	--	Of bamboo	u	12.5%
9401 53 00	--	Of rattan	u	12.5%”;

(iii) for tariff item 9403 81 00 and the entries relating thereto, the following shall be substituted, namely:—

“9401 82 00	--	Of bamboo	u	12.5%
9401 83 00	--	Of rattan	u	12.5%”;

(iv) for heading 9406, sub-heading 9406 00, tariff items 9406 00 11 to 9406 00 99 and the entries relating thereto, the following shall be substituted, namely:—

“9406		<b>PREFABRICATED BUILDINGS</b>		
9406 10	-	<i>Of wood:</i>		
9406 10 10	---	Green-houses	u	12.5%
9406 10 20	---	For cold storage	u	12.5%
9406 10 30	---	Silos for storing ensilage	u	12.5%
9406 10 90	---	Other	u	12.5%
9406 90	-	<i>Other:</i>		
9406 90 10	---	Green-houses	u	12.5%
9406 90 20	---	For cold storage	u	12.5%
9406 90 30	---	Silos for storing ensilage	u	12.5%
9406 90 90	---	Other	u	12.5%”;

(44) in Chapter 95,—

(i) in Note 1,—

(A) for clause (e), the following clause shall be substituted, namely:—

“( e ) fancy dress of textiles, of Chapter 61 or 62; sports clothing and special articles of apparel of textiles, of Chapter 61 or 62, whether or not incorporating incidentally protective components such as pads or padding in the elbow, knee or groin areas (for example, fencing clothing or soccer goalkeeper jerseys);”;

(B) after clause (r), the following clause shall be inserted, namely:—

“(u) monopods, bipods, tripods and similar articles (heading 9620);”;

(C) the existing clauses (u) and (v) shall respectively be re-lettered as (v) and (w);

(45) in Chapter 96, after tariff item 9619 00 90 and the entries relating thereto, the following shall be inserted, namely:—

“9620 00 00	-	<b>MONOPODS, BIPODS, TRIPODS AND SIMILAR ARTICLES</b>	u	12.5%”.
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THE NINTH SCHEDULE  
(See section 147)

Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

In the Second Schedule to the Central Excise Tariff Act,—

(i) in heading 4011, for tariff items 4011 61 00 to 4011 99 00 and the entries relating thereto, the following shall be substituted, namely:—

“4011 50 90	---	Other	u	8%
4011 70 00	-	Of a kind used on agricultural or forestry vehicles and machines	u	8%
4011 80 00	-	Of a kind used on construction, mining or industrial handling vehicles and machines	u	8%
4011 90 00	-	Other	u	8%”;

(ii) for sub-heading 5402 20 and the entries relating thereto, the following shall be substituted, namely:—

“5402 20 -- *High tenacity yarn of polyesters, whether or not textured:*”;

(iii) in heading 8415, for sub-heading 8415 10 and the entries relating thereto, the following shall be substituted, namely:—

‘8415 10 - *Of a kind designed to be fixed to a window, wall, ceiling or floor, self-contained or “split-system”:*’;

(iv) in sub-heading 8702 10, for tariff items 8702 10 11 to 8702 10 99, sub-heading 8702 90, tariff items 8702 90 11 to 8702 90 20 and the entries relating thereto, the following shall be substituted, namely:—

“8702 10	-	<i>With only compression-ignition internal combustion piston engine (diesel or semi-diesel):</i>		
	---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 10 11	----	Integrated monocoque vehicle, air-conditioned	u	8%
8702 10 12	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 10 18	----	Other, air-conditioned	u	8%
8702 10 19	----	Other, non air-conditioned	u	8%
	---	<i>Other:</i>		
8702 10 21	----	Integrated monocoque vehicle, air-conditioned	u	8%
8702 10 22	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 10 28	----	Other, air-conditioned	u	8%
8702 10 29	----	Other, non air-conditioned	u	8%
8702 20	-	<i>With both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion:</i>		
	---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 20 11	----	Integrated monocoque vehicle, air-conditioned	u	8%
8702 20 12	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 20 18	----	Other, air-conditioned	u	8%
8702 20 19	----	Other, non air-conditioned	u	8%
	---	<i>Other:</i>		
8702 20 21	----	Integrated monocoque vehicle, air-conditioned	u	8%



Tariff Item		Description of goods	Unit	Rate of Duty
(1)		(2)	(3)	(4)
8702 20 22	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 20 28	----	Other, air-conditioned	u	8%
8702 20 29	----	Other, non air-conditioned	u	8%
8702 30	-	<i>With both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion:</i>		
	---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 30 11	----	Integrated monocoque vehicle, air-conditioned	u	8%
8702 30 12	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 30 18	----	Other, air-conditioned	u	8%
8702 30 19	----	Other, non air-conditioned	u	8%
	---	<i>Other:</i>		
8702 30 21	----	Integrated monocoque vehicle, air-conditioned	u	8%
8702 30 22	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 30 28	----	Other, air-conditioned	u	8%
8702 30 29	----	Other, non air-conditioned	u	8%
8702 40	-	<i>With only electric motor for propulsion:</i>		
	---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 40 11	----	Integrated monocoque vehicle, air-conditioned	u	8%
8702 40 12	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 40 18	----	Other, air-conditioned	u	8%
8702 40 19	----	Other, non air-conditioned	u	8%
	---	<i>Other:</i>		
8702 40 21	----	Integrated monocoque vehicle, air-conditioned	u	8%
8702 40 22	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 40 28	----	Other, air-conditioned	u	8%
8702 40 29	----	Other, non air-conditioned	u	8%
8702 90	-	<i>Other:</i>		
	---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 90 11	----	Integrated monocoque vehicle, air-conditioned	u	8%
8702 90 12	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 90 18	----	Other, air-conditioned	u	8%
8702 90 19	----	Other, non air-conditioned	u	8%
	---	<i>Other:</i>		
8702 90 21	----	Integrated monocoque vehicle, air-conditioned	u	8%
8702 90 22	----	Integrated monocoque vehicle, non air-conditioned	u	8%
8702 90 28	----	Other, air-conditioned	u	8%
8702 90 29	----	Other, non air-conditioned	u	8%";



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)

(v) in sub-heading 8703 10,—

(a) in the entry in column (2) occurring after tariff item 8703 10 90 and the entries relating thereto, after the word “with”, the word “only” shall be inserted;

(b) in the entry in column (2) occurring after tariff item 8703 24 99 and the entries relating thereto, for the word “with”, the word “only” shall be inserted;

(c) after tariff item 8703 33 99 and the entries relating thereto, the following shall be inserted, namely:—

“8703 40	-	<i>Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power:</i>		
8703 40 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	8%
8703 40 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	8%
8703 40 30	---	Motor cars	u	8%
8703 40 40	---	Three-wheeled vehicles	u	8%
8703 40 90	---	Other	u	8%
8703 50	-	<i>Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power:</i>		
8703 50 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	8%
8703 50 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	8%
8703 50 30	---	Motor cars	u	8%
8703 50 40	---	Three-wheeled vehicles	u	8%
8703 50 90	---	Other	u	8%
8703 60	-	<i>Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power:</i>		
8703 60 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	8%
8703 60 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	8%
8703 60 30	---	Motor cars	u	8%
8703 60 40	---	Three-wheeled vehicles	u	8%
8703 60 90	---	Other	u	8%
8703 70	-	<i>Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power:</i>		
8703 70 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	8%
8703 70 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	8%
8703 70 30	---	Motor cars	u	8%
8703 70 40	---	Three-wheeled vehicles	u	8%
8703 70 90	---	Other	u	8%



Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
8703 80	- <i>Other vehicles, with only electric motor for propulsion:</i>		
8703 80 10	--- Vehicles principally designed for transport of more than seven persons, including driver	u	8%
8703 80 20	--- Specialised transport vehicles such as ambulances, prison vans and the like	u	8%
8703 80 30	--- Motor cars	u	8%
8703 80 40	--- Three-wheeled vehicles	u	8%
8703 80 90	--- Other	u	8%";

(vi) for sub-heading 8703 90, tariff items 8703 90 10 and 8703 90 90 and the entries relating thereto, the following shall be substituted, namely:—

"8703 90 00	- Other	u	8%".
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## THE TENTH SCHEDULE

(See section 160)

Notification No.	Amendment	Period of effect of amendment
(1)	(2)	(3)
G.S.R. 519(E), dated the 29 <sup>th</sup> June, 2012 [No.41/2012-Service Tax, dated the 29 <sup>th</sup> June, 2012]	In the said notification, in the <i>Explanation</i> ,— (a) in clause (A), for sub-clause (i), the following sub-clause shall be substituted and shall be deemed to have been substituted, namely:— “ (i) in the case of excisable goods, taxable services that have been used beyond factory or any other place or premises of production or manufacture of the said goods, for their export;”; (b) clause (B) shall be omitted.	1 <sup>st</sup> day of July, 2012 to 2 <sup>nd</sup> February, 2016 (both days inclusive).



## THE ELEVENTH SCHEDULE

(See section 162)

Item No.	Description of goods	Rate
(1)	(2)	(3)
1.	All goods falling under heading 8703 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).	4%



## THE TWELFTH SCHEDULE

[See section 231 (i)]

In the Seventh Schedule to the Finance Act, 2001,—

- (a) in column (1), for the tariff item "2403 10 10", the tariff item "2403 11 10" shall be substituted;
- (b) in column (1), for the tariff item "2403 10 20", the tariff item "2403 19 10" shall be substituted;
- (c) in column (1), for the tariff item "2403 10 31", the tariff item "2403 19 21" shall be substituted;
- (d) in column (1), for the tariff item "2403 10 39", the tariff item "2403 19 29" shall be substituted;
- (e) in column (1), for the tariff item "2403 10 90", the tariff item "2403 19 90" shall be substituted.



## THE THIRTEENTH SCHEDULE

[See section 231 (ii)]

In the Seventh Schedule to the Finance Act, 2001,—

(i) for sub-heading 8702 10, tariff items 8702 10 11 to 8702 10 19 and sub-heading 8702 90, tariff items 8702 90 11 to 8702 90 20 and the entries relating thereto, the following shall be substituted, namely:—

Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
8702 10 -	<i>With only compression-ignition internal combustion piston engine (diesel or semi-diesel):</i>		
---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 10 11 ----	Integrated monocoque vehicle, air-conditioned	u	1%
8702 10 12 ----	Integrated monocoque vehicle, non air-conditioned	u	1%
8702 10 18 ----	Other, air-conditioned	u	1%
8702 10 19 ----	Other, non air-conditioned	u	1%
8702 20 -	<i>With both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion:</i>		
---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 20 11 ----	Integrated monocoque vehicle, air-conditioned	u	1%
8702 20 12 ----	Integrated monocoque vehicle, non air-conditioned	u	1%
8702 20 18 ----	Other, air-conditioned	u	1%
8702 20 19 ----	Other, non air-conditioned	u	1%
8702 30 -	<i>With both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion:</i>		
---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 30 11 ----	Integrated monocoque vehicle, air-conditioned	u	1%
8702 30 12 ----	Integrated monocoque vehicle, non air-conditioned	u	1%
8702 30 18 ----	Other, air-conditioned	u	1%
8702 30 19 ----	Other, non air-conditioned	u	1%
8702 40 -	<i>With only electric motor for propulsion:</i>		
---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 40 11 ----	Integrated monocoque vehicle, air-conditioned	u	1%
8702 40 12 ----	Integrated monocoque vehicle, non air-conditioned	u	1%
8702 40 18 ----	Other, air-conditioned	u	1%
8702 40 19 ----	Other, non air-conditioned	u	1%
8702 90 -	<i>Other:</i>		
---	<i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 90 11 ----	Integrated monocoque vehicle, air-conditioned	u	1%
8702 90 12 ----	Integrated monocoque vehicle, non air-conditioned	u	1%
8702 90 18 ----	Other, air-conditioned	u	1%
8702 90 19 ----	Other, non air-conditioned	u	1%;



(ii) in the entry in column (2) occurring after tariff item 8703 10 90 and the entries relating thereto, after the word "with", the word "only" shall be inserted;

(iii) in the entry in column (2) occurring after tariff item 8703 24 99 and the entries relating thereto, after the word "with", the word "only" shall be inserted;

(iv) after tariff item 8703 33 99 and the entries relating thereto, the following shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
"8703 40	<i>Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power:</i>		
8703 40 10	Vehicles principally designed for transport of more than seven persons, including driver	u	1%
8703 40 20	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 40 30	Motor cars	u	1%
8703 40 40	Three-wheeled vehicles	u	1%
8703 40 90	Other	u	1%
8703 50	<i>Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power:</i>		
8703 50 10	Vehicles principally designed for transport of more than seven persons, including driver	u	1%
8703 50 20	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 50 30	Motor cars	u	1%
8703 50 40	Three-wheeled vehicles	u	1%
8703 50 90	Other	u	1%
8703 60	<i>Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power:</i>		
8703 60 10	Vehicles principally designed for transport of more than seven persons, including driver	u	1%
8703 60 20	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 60 30	Motor cars	u	1%
8703 60 40	Three-wheeled vehicles	u	1%
8703 60 90	Other	u	1%
8703 70	<i>Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power:</i>		
8703 70 10	Vehicles principally designed for transport of more than seven persons, including driver	u	1%
8703 70 20	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 70 30	Motor cars	u	1%
8703 70 40	Three-wheeled vehicles	u	1%



Tariff Item		Description of goods	Unit	Rate of Duty
(1)		(2)	(3)	(4)
8703 70 90	---	Other	u	1%
8703 80	-	<i>Other vehicles, with only electric motor for propulsion:</i>		
8703 80 10	---	Vehicles principally designed for transport of more than seven persons, including driver	u	1%
8703 80 20	---	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 80 30	---	Motor cars	u	1%
8703 80 40	---	Three-wheeled vehicles	u	1%
8703 80 90	---	Other	u	1%";

(v) for sub-heading 8703 90, tariff items 8703 90 10 and 8703 90 90 and the entries relating thereto, the following shall be substituted, namely:—

Tariff Item		Description of goods	Unit	Rate of Duty
(1)		(2)	(3)	(4)
8703 90 00	-	Other	u	1%".



## THE FOURTEENTH SCHEDULE

(See section 234)

In the Seventh Schedule to the Finance Act, 2005,—

- (a) for the entry in column (4) occurring against tariff item 2402 20 10, the entry "Rs.215 per thousand" shall be substituted;
- (b) for the entry in column (4) occurring against tariff item 2402 20 20, the entry "Rs.370 per thousand" shall be substituted;
- (c) for the entry in column (4) occurring against tariff item 2402 20 30, the entry "Rs.215 per thousand" shall be substituted;
- (d) for the entry in column (4) occurring against tariff item 2402 20 40, the entry "Rs.260 per thousand" shall be substituted;
- (e) for the entry in column (4) occurring against tariff item 2402 20 50, the entry "Rs.370 per thousand" shall be substituted;
- (f) for the entry in column (4) occurring against tariff item 2402 20 90, the entry "Rs.560 per thousand" shall be substituted.



## THE FIFTEENTH SCHEDULE

(See section 239)

## REPEALS

Year	No.	Short title	Extent of repeal
(1)	(2)	(3)	(4)
1946	22	The Mica Mines Labour Welfare Fund Act, 1946	Section 2.
1953	49	The Salt Cess Act, 1953	The whole.
1958	44	The Merchant Shipping Act, 1958	Section 261, clause (y) of section 262, section 356M, section 356N, clause (e) of section 356-O.
1963	41	The Textiles Committee Act, 1963	Sections 5A, 5D, 5E, 5F, clause (aa) of sub-section (1) of section 7 and clause (da) of sub-section (2) of section 22.
1972	62	The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972	Sections 3, 4 and clauses (a) to (f) of sub-section (2) of section 16.
1975	26	The Tobacco Cess Act, 1975	The whole.
1976	55	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976	Sections 3, 4, 5 and section 6.
1981	30	The Cine-workers Welfare Cess Act, 1981	Clause (a) of section 3.

## AMENDMENTS

Year	No.	Short title	Amendments
(1)	(2)	(3)	(4)
1972	62	The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972	For sub-section (1) of section 5, the following sub-section shall be substituted, namely:—  “(1) The Central Government shall constitute a fund called the Limestone and Dolomite Labour Welfare Fund (hereinafter referred to as the Fund).”
1976	56	The Beedi Workers Welfare Cess Act, 1976	In sub-section (1) of section 3, for the words “not be less than fifty paise or more than five rupees”, the words “not be less than five rupees or more than twenty-four rupees” shall be substituted.

Sd/-

Dr. G. NARAYANA RAJU,  
Secretary to the Government of India.

By order By order and in the name of the Governor of Gujarat,

Sd/-

C. J. GOTHI,  
Additional Chief Secretary to Government.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 06<sup>th</sup> October, 2016.

No. RPB/252-2016/Act.30-16-E:— The following Act of Parliament is republished for general Information :-

### GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 16<sup>th</sup> May, 2016. Vaishakh 26, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 13<sup>th</sup> May, 2016 is hereby published for general information :-

### THE ANTI-HIJACKING ACT, 2016

[ACT No. 30 of 2016]

[13<sup>th</sup> May, 2016]

AN

ACT

*to give effect to the Convention for the Suppression of Unlawful Seizure of Aircraft and for matters connected therewith.*

WHEREAS a Convention for the Suppression of Unlawful Seizure of Aircraft was signed at The Hague on the 16th day of December, 1970;

65 of 1982. AND WHEREAS India acceded to the said Convention and enacted the Anti-Hijacking Act, 1982 to give effect to the provisions of the Convention;

AND WHEREAS India has signed the Protocol Supplementary to the Convention at Beijing on the 10th day of September, 2010 which deals with unlawful acts against Civil Aviation by new types of threats which require comprehensive amendments to the said Act;

AND WHEREAS it is considered expedient that the unlawful acts of seizure or exercise of control of aircraft which jeopardize safety of persons and property is a matter of great concern to be addressed effectively by making suitable provisions for giving effect to the Convention and the Protocol and for matters connected therewith.



BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

Short title,  
extent,  
application  
and com-  
mencement.

1. (1) This Act may be called the Anti-Hijacking Act, 2016.
- (2) It extends to the whole of India and, save as otherwise provided in this Act, it applies also to any offence thereunder committed outside India by any person.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Agency” means the National Investigation Agency constituted under section 3 of the National Investigation Agency Act, 2008;

34 of 2008.

(b) “aircraft” means any aircraft, whether or not registered in India, other than a military aircraft or an aircraft used in customs or police service;

(c) “aircraft registered in India” means an aircraft which is for the time being registered in India;

(d) “Convention country” means a country in which the Hague Convention is for the time being in force;

(e) “Hague Convention” means the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on the 16th day of December, 1970 and includes the Protocol Supplementary to the Convention signed at Beijing on the 10th day of September, 2010;

(f) “hostage” means a passenger or a crew member of an aircraft or any security personnel on board the aircraft or a ground support staff involved in the maintenance of the aircraft, who is unlawfully seized or detained without his consent, or with his consent obtained by fraud or duress, by an individual or by a group of persons, during the transit of an aircraft or when it is stationed at an airport, with an intention to secure any demand or fulfilment of any condition made by such individual or such group of persons;

(g) “military aircraft” means an aircraft of the naval, military, air force or any other armed forces of any country and includes every aircraft commanded for the time being by a person in any such force detailed for the purpose;

(h) “notification” means a notification published in the Official Gazette;

(i) “security personnel” means security personnel deployed by the Central Government or appointed by any agency authorised by that Government to ensure security of civil aviation against acts of unlawful interference.

*Explanation.*—for the purposes of this clause “acts of unlawful interference” means acts or attempted acts to jeopardize the safety of civil aviation and air transport, including—

- (i) unlawful seizure of aircraft in flight;
- (ii) unlawful seizure of aircraft on the ground;
- (iii) hostage-taking on board aircraft or on aerodromes;
- (iv) forcible intrusion on board aircraft, at an aerodrome or on the premises on an aeronautical facility;
- (v) introduction on board an aircraft or at an aerodrome, of a weapon, explosive or other hazardous device, article or substances intended for criminal purposes;



(vi) communication of false information with a view to jeopardize the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or the general public, at an aerodrome or on the premises of a civil aviation facility.

## CHAPTER II

## HIJACKING AND CONNECTED OFFENCES

3. (1) Whoever unlawfully and intentionally seizes or exercises control of an aircraft in service by force or threat thereof, or by coercion, or by any other form of intimidation, or by any technological means, commits the offence of hijacking. Hijacking.

(2) A person shall also be deemed to have committed the offence of hijacking specified in sub-section (1), if, such person—

(a) makes a threat to commit such offence or unlawfully and intentionally causes any person to receive such threat under circumstances which indicate that the threat is credible; or

(b) attempts to commit or abets the commission of such offence; or

(c) organises or directs others to commit such offence or the offence specified in clause (a) or clause (b) above;

(d) participates as an accomplice in such offence or the offence specified in clause (a) or clause (b) above;

(e) unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that such person has committed any such offence or the offence specified in clause (a) or clause (b) or clause (c) or clause (d) above, or that such person is wanted for criminal prosecution by law enforcement authorities for such an offence or has been sentenced for such an offence.

(3) A person also commits the offence of hijacking, when committed intentionally, whether or not any of the offences specified in sub-section (1) or in clause (a) of sub-section (2) is actually committed or attempted, either or both of the following:—

(a) agreeing with one or more other persons to commit an offence specified in sub-section (1) or in clause (a) of sub-section (2), involving an act undertaken by one of the participants in furtherance of the agreement; or

(b) contributing in any manner to the commission of an offence specified in sub-section (1) or in clause (a) of sub-section (2) by a group of persons acting with a common purpose and such contribution shall either—

(i) be made with the aim of furthering the general criminal activity or purpose of the group, where such activity or purpose involves the commission of such an offence; or

(ii) be made in the knowledge of the intention of the group to commit such offence.

(4) For the purposes of this Act, an aircraft shall be considered to be “in service” from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

4. Whoever commits the offence of hijacking shall be punished—

(a) with death where such offence results in the death of a hostage or of a security personnel or of any person not involved in the offence, as a direct consequence of the offence of hijacking; or

(b) with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine,

Punishment  
for hijacking.



Punishment  
for acts of  
violence  
connected  
with  
hijacking.

Conferment  
of powers of  
investiga-  
tions, etc.

Jurisdiction.

Designated  
Court.

Offences  
triable by  
Designated  
Court.

and the movable and immovable property of such person shall also be liable to be confiscated.

5. Whoever, being a person committing the offence of hijacking of an aircraft, commits, in connection with such offence, any act of violence against any passenger or member of the crew of such aircraft, shall be punished with the same punishment with which he would have been punishable under any law for the time being in force in India if such act had been committed in India.

6. (1) For the purposes of this Act, the Central Government may, notwithstanding anything contained in the Code of Criminal Procedure, 1973, by notification, confer on any officer of the Central Government or any officer of the Agency, powers of arrest, investigation and prosecution exercisable by a police officer under the said Code.

2 of 1974.

(2) All officers of police and all officers of Government are hereby required and empowered to assist the officer of the Central Government referred to in sub-section (1) in the execution of the provisions of this Act.

7. (1) Subject to the provisions of sub-section (2), where an offence under section 3 or section 5 is committed outside India, the person committing such offence may be dealt with in respect thereof as if such offence had been committed at any place within India at which he may be found.

(2) No Court shall take cognizance of an offence punishable under section 3 or section 5 which is committed outside India unless,—

(a) such offence is committed within the territory of India;

(b) such offence is committed against or on board an aircraft registered in India;

(c) such offence is committed on board and the aircraft in which the offence is committed lands in India with the alleged offender still on board;

(d) such offence is committed against or on board an aircraft which is for the time being leased without crew to a lessee who has his principal place of business or where he has no such place of business, his permanent residence is in India;

(e) such offence is committed by or against a citizen of India;

(f) such offence is committed by a stateless person whose habitual residence is in the territory of India;

(g) such offence is committed by the alleged offender who is present in India but not extradited under section 11.

8. (1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification, specify a Court of Sessions to be a Designated Court for such area or areas as may be specified in the notification.

(2) Notwithstanding the provisions of sub-section (1), the Special Court Constituted under section 11 or, as the case may be, under section 22 of the National Investigation Agency Act, 2008 shall be the Designated Court for the purposes of this Act in case where the power of arrest, investigation and prosecution is exercised by the Agency under sub-section (1) of section 6.

34 of 2008.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Designated Court shall, as far as practicable, hold the trial on a day-to-day basis.

2 of 1974.

9. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

2 of 1974.

(a) all offences under this Act shall be triable by the Designated Court referred to in section 8.

(b) where a person who is accused or suspected of the commission of an offence under this Act is forwarded to the Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise detention of such person in such custody, as he thinks fit, for a period not exceeding thirty days in the whole, where such Magistrate is a Judicial Magistrate, and seven days in the whole, where such Magistrate is an Executive Magistrate:

2 of 1974.



Provided that the Magistrate may, if he considers that the detention of such person is not required,—

(i) when such person is forwarded to him as aforesaid; or

(ii) upon or at any time before the expiry of the period of detention authorised by him,

he shall order such person to be forwarded to the Designated Court having jurisdiction;

2 of 1974.

(c) the Designated Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973, in relation to an accused person in such case who has been forwarded to him under that section;

(d) the Designated Court may, upon perusal of the report filled by the Agency or a complaint made by an officer of the Central Government, or the State Government, as the case may be, authorised in this behalf, take cognizance of the offence without the accused being committed to it for trial.

2 of 1974.

(2) When trying an offence under this Act, a Designated Court may also try an offence other than an offence under this Act, which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

2 of 1974.

10. Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Designated Court and the person conducting a prosecution before a Designated Court shall be deemed to be a Public Prosecutor.

Application of Code to proceedings before Designated Court.

### CHAPTER III

#### MISCELLANEOUS

11. (1) The offences under section 3 and section 5 shall be deemed to have been included as extraditable offences and provided for in all the extradition treaties made by India with Convention countries and which extend to, and are binding on, India on the date of commencement of this Act.

Provisions as to extradition.

34 of 1962.

(2) For the purposes of the application of the Extradition Act, 1962 to offences under this Act, any aircraft registered in a Convention country shall, at any time while that aircraft is in service, be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

(3) None of the offences mentioned in section 3 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives and a request for extradition or for mutual legal assistance based on such an offence shall not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2 of 1974.

12. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond, unless,—

Provision as to bail.

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where Public Prosecutor opposes the application, the Designated Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

2 of 1974.

(2) The limitations on granting of bail as specified in sub-section (1) are in addition to the limitation under the Code of Criminal Procedure, 1973, or any other law for the time being in force, on granting bail.

2 of 1974.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973.



Contracting parties to Convention.

13. The Central Government may, by notification, certify as to who are the contracting parties to the Hague Convention and to what extent they have availed themselves of the provisions of the Convention, and any such notification shall be conclusive evidence of the matters certified therein.

Power to treat certain aircraft to be registered in Convention countries.

14. (1) If the Central Government is satisfied that the requirements of sub-section (2) have been satisfied in relation to any aircraft, it may, by notification, direct that such aircraft shall, for the purposes of this Act, be treated as registered in such Convention country as may be specified in the notification.

(2) Where the Convention countries establish joint air transport operating organisations or international operating agencies, which operate aircraft which are subject to joint or international registration, shall, by appropriate means, designate for each aircraft, the country among them which shall exercise the jurisdiction and have the attributes of the country of registry for the purposes of the Convention and shall give notice thereof to the Secretary General of the International Civil Aviation Organisation who shall communicate the notice to all Convention countries.

Previous sanction necessary for prosecution.

15. No prosecution for an offence under this Act shall be instituted except with the previous sanction of the Central Government.

Presumption as to offences under sections 3 and 5.

16. In a prosecution for an offence under section 3 or section 5, if it is proved that—

(a) the arms, ammunitions or explosives were recovered from the possession of the accused and there is reason to believe that such arms, ammunitions or explosives of similar nature were used in the commission of such offence; or

(b) there is evidence of use of force, threat of force or any other form of intimidation caused to the crew or passengers in connection with the commission of such offence,

the Designated Court shall presume, unless the contrary is proved, that the accused has committed such offence.

Protection of action taken in good faith.

17. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

Powers of investigating officers to seize or attach property.

18. (1) Where any officer, referred to in section 6, while conducting an inquiry or investigation has a reason to believe that any property, movable or immovable, or both, is relatable to the commission of the offence in relation to which such inquiry or investigation is being conducted, is likely to be concealed, transferred or dealt with in any manner which will result in disposal of such property, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order of attachment directing that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned.

(2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the Designated Court, within a period of forty-eight hours of its being made.

(3) The Designated Court may either confirm or revoke the order of seizure or attachment referred to in sub-section (2).

(4) Notwithstanding the confirmation of the order by the Designated Court under sub-section (3), any person aggrieved by the order of attachment made under sub-section (1), may make an application to the Designated Court for revocation of said order within a period of thirty days from the date of confirmation of the order under sub-section (3).



19. Where any order is made by the Designated Court under section 4 for confiscation of movable or immovable property or both, of the accused, then, such property shall stand forfeited to the Government free from all encumbrances:

Confiscation and forfeiture of property.

Provided that the Designated Court may, during the period of such trial, order that all or any of the properties, movable or immovable, or both, belonging to the accused be attached, and in case such trial ends in conviction, then, the property so attached shall stand forfeited to Government free from all encumbrances.

20. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

General power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

65 of 1982.

21. (1) The Anti-Hijacking Act, 1982 is hereby repealed.

Repeal and savings.

(2) The repeal of the said Act shall not affect—

(a) the previous operation of, or anything duly done or suffered under, or any action taken or purported to have been done or taken including any notification, order or notice made or issued, or any appointment, confirmation or declaration made or any authorisation granted or any document or instrument executed or any direction given, under the Act so repealed, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act; or

(b) any right, privilege or obligation or liability acquired, accrued or incurred under the said Act; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence under the said Act; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and, any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Act had not been repealed.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Additional Chief Secretary to Government.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 06<sup>th</sup> October, 2016.

No. RPB/253-2016/Act.31-16-E:— The following Act of Parliament is republished for general Information :-

#### GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 28<sup>th</sup> May, 2016/Jyeshtha 7, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 28<sup>th</sup> May, 2016 is hereby published for general information :-

#### THE INSOLVENCY AND BANKRUPTCY CODE, 2016

[ACT No. 31 OF 2016

[28<sup>th</sup> May, 2016]

AN

ACT

*to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### PART I

##### PRELIMINARY

- (1) This Code may be called the Insolvency and Bankruptcy Code, 2016.
- (2) It extends to the whole of India:

Short title,  
extent and  
commencement

Provided that Part III of this Code shall not extend to the State of Jammu and Kashmir.

- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:



Provided that different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the commencement of that provision.

## Application.

## 2. The provisions of this Code shall apply to—

(a) any company incorporated under the Companies Act, 2013 or under any previous company law; 18 of 2013.

(b) any other company governed by any special Act for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act;

(c) any Limited Liability Partnership incorporated under the Limited Liability Partnership Act, 2008; 6 of 2009.

(d) such other body incorporated under any law for the time being in force, as the Central Government may, by notification, specify in this behalf; and

(e) partnership firms and individuals,

in relation to their insolvency, liquidation, voluntary liquidation or bankruptcy, as the case may be.

## Definitions.

## 3. In this Code, unless the context otherwise requires,—

(1) "Board" means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 188;

(2) "bench" means a bench of the Adjudicating Authority;

(3) "bye-laws" mean the bye-laws made by the insolvency professional agency under section 205;

(4) "charge" means an interest or lien created on the property or assets of any person or any of its undertakings or both, as the case may be, as security and includes a mortgage;

(5) "Chairperson" means the Chairperson of the Board;

(6) "claim" means—

(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;

(b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;

(7) "corporate person" means a company as defined in clause (20) of section 2 of the Companies Act, 2013, a limited liability partnership, as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, or any other person incorporated with limited liability under any law for the time being in force but shall not include any financial service provider; 18 of 2013, 6 of 2009.

(8) "corporate debtor" means a corporate person who owes a debt to any person;

(9) "core services" means services rendered by an information utility for—

(a) accepting electronic submission of financial information in such form and manner as may be specified;

(b) safe and accurate recording of financial information;

(c) authenticating and verifying the financial information submitted by a person; and



(d) providing access to information stored with the information utility to persons as may be specified;

(10) "creditor" means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder;

(11) "debt" means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;

(12) "default" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not repaid by the debtor or the corporate debtor, as the case may be;

(13) "financial information", in relation to a person, means one or more of the following categories of information, namely:—

(a) records of the debt of the person;

(b) records of liabilities when the person is solvent;

(c) records of assets of person over which security interest has been created;

(d) records, if any, of instances of default by the person against any debt;

(e) records of the balance sheet and cash-flow statements of the person; and

(f) such other information as may be specified.

(14) "financial institution" means—

(a) a scheduled bank;

(b) financial institution as defined in section 45-I of the Reserve Bank of India Act, 1934;

(c) public financial institution as defined in clause (72) of section 2 of the Companies Act, 2013; and

(d) such other institution as the Central Government may by notification specify as a financial institution;

(15) "financial product" means securities, contracts of insurance, deposits, credit arrangements including loans and advances by banks and financial institutions, retirement benefit plans, small savings instruments, foreign currency contracts other than contracts to exchange one currency (whether Indian or not) for another which are to be settled immediately, or any other instrument as may be prescribed;

(16) "financial service" includes any of the following services, namely:—

(a) accepting of deposits;

(b) safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;

(c) effecting contracts of insurance;

(d) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;

(e) rendering or agreeing, for consideration, to render advice on or soliciting for the purposes of—

(i) buying, selling, or subscribing to, a financial product;

(ii) availing a financial service; or

2 of 1934.

18 of 2013.



(iii) exercising any right associated with a financial product or financial service;

(f) establishing or operating an investment scheme;

(g) maintaining or transferring records of ownership of a financial product;

(h) underwriting the issuance or subscription of a financial product; or

(i) selling, providing, or issuing stored value or payment instruments or providing payment services;

(17) "financial service provider" means a person engaged in the business of providing financial services in terms of authorisation issued or registration granted by a financial sector regulator;

(18) "financial sector regulator" means an authority or body constituted under any law for the time being in force to regulate services or transactions of financial sector and includes the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory Authority and such other regulatory authorities as may be notified by the Central Government;

(19) "insolvency professional" means a person enrolled under section 206 with an insolvency professional agency as its member and registered with the Board as an insolvency professional under section 207;

(20) "insolvency professional agency" means any person registered with the Board under section 201 as an insolvency professional agency;

(21) "information utility" means a person who is registered with the Board as an information utility under section 210;

(22) "notification" means a notification published in the Official Gazette, and the terms "notified" and "notify" shall be construed accordingly;

(23) "person" includes—

(a) an individual;

(b) a Hindu Undivided Family;

(c) a company;

(d) a trust;

(e) a partnership;

(f) a limited liability partnership; and

(g) any other entity established under a statute,

and includes a person resident outside India;

(24) "person resident in India" shall have the meaning assigned to such term in clause (v) of section 2 of the Foreign Exchange Management Act, 1999;

42 of 1999.

(25) "person resident outside India" means a person other than a person resident in India;

(26) "prescribed" means prescribed by rules made by the Central Government;

(27) "property" includes money, goods, actionable claims, land and every description of property situated in India or outside India and every description of interest including present or future or vested or contingent interest arising out of, or incidental to, property;



(28) "regulations" means the regulations made by the Board under this Code;

(29) "Schedule" means the Schedule annexed to this Code;

(30) "secured creditor" means a creditor in favour of whom security interest is created;

(31) "security interest" means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person:

Provided that security interest shall not include a performance guarantee;

(32) "specified" means specified by regulations made by the Board under this Code and the term "specify" shall be construed accordingly;

(33) "transaction" includes a agreement or arrangement in writing for the transfer of assets, or funds, goods or services, from or to the corporate debtor;

(34) "transfer" includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien;

(35) "transfer of property" means transfer of any property and includes a transfer of any interest in the property and creation of any charge upon such property;

(36) "workman" shall have the same meaning as assigned to it in clause (s) of section 2 of the Industrial Disputes Act, 1947;

(37) words and expressions used but not defined in this Code but defined in the Indian Contract Act, 1872, the Indian Partnership Act, 1932, the Securities Contract (Regulation) Act, 1956, the Securities Exchange Board of India Act, 1992, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the Limited Liability Partnership Act, 2008 and the Companies Act, 2013, shall have the meanings respectively assigned to them in those Acts.

## PART II

### INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS

#### CHAPTER I

##### PRELIMINARY

4. (1) This Part shall apply to matters relating to the insolvency and liquidation of corporate debtors where the minimum amount of the default is one lakh rupees:

Application of this Part.

Provided that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one crore rupees.

5. In this Part, unless the context otherwise requires,—

Definitions:

(1) "Adjudicating Authority", for the purposes of this Part, means National Company Law Tribunal constituted under section 408 of the Companies Act, 2013;

(2) "auditor" means a chartered accountant certified to practice as such by the Institute of Chartered Accountants of India under section 6 of the Chartered Accountants Act, 1949;

(3) "Chapter" means a Chapter under this Part;

(4) "constitutional document", in relation to a corporate person, includes articles of association, memorandum of association of a company and incorporation document of a Limited Liability Partnership;

14 of 1947.

9 of 1872.

9 of 1932.

42 of 1956.

15 of 1992.

51 of 1993.

6 of 2009.

18 of 2013.

18 of 2013.

XXXVIII of 1949.



- (5) "corporate applicant" means—
- (a) corporate debtor; or
  - (b) a member or partner of the corporate debtor who is authorised to make an application for the corporate insolvency resolution process under the constitutional document of the corporate debtor; or
  - (c) an individual who is in charge of managing the operations and resources of the corporate debtor; or
  - (d) a person who has the control and supervision over the financial affairs of the corporate debtor;
- (6) "dispute" includes a suit or arbitration proceedings relating to—
- (a) the existence of the amount of debt;
  - (b) the quality of goods or service; or
  - (c) the breach of a representation or warranty;
- (7) "financial creditor" means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to;
- (8) "financial debt" means a debt alongwith interest, if any, which is disbursed against the consideration for the time value of money and includes—
- (a) money borrowed against the payment of interest;
  - (b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;
  - (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
  - (d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;
  - (e) receivables sold or discounted other than any receivables sold on non-recourse basis;
  - (f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;
  - (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;
  - (h) any counter-indemnity obligation in respect of a guarantee, indemnify, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;
  - (i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;
- (9) "financial position", in relation to any person, means the financial information of a person as on a certain date;
- (10) "information memorandum" means a memorandum prepared by resolution professional under sub-section (1) of section 29;
- (11) "initiation date" means the date on which a financial creditor, corporate



applicant or operational creditor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process;

(12) "insolvency commencement date" means the date of admission of an application for initiating corporate insolvency resolution process by the Adjudicating Authority under sections 7, 9 or section 10, as the case may be;

(13) "insolvency resolution process costs" means—

(a) the amount of any interim finance and the costs incurred in raising such finance;

(b) the fees payable to any person acting as a resolution professional;

(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;

(d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and

(e) any other costs as may be specified by the Board;

(14) "insolvency resolution process period" means the period of one hundred and eighty days beginning from the insolvency commencement date and ending on one hundred and eightieth day;

(15) "interim finance" means any financial debt raised by the resolution professional during the insolvency resolution process period;

(16) "liquidation cost" means any cost incurred by the liquidator during the period of liquidation subject to such regulations, as may be specified by the Board;

(17) "liquidation commencement date" means the date on which proceedings for liquidation commence in accordance with section 33 or section 59, as the case may be;

(18) "liquidator" means an insolvency professional appointed as a liquidator in accordance with the provisions of Chapter III or Chapter V of this Part, as the case may be;

(19) "officer" for the purposes of Chapter VII of this Part, means an officer who is in default, as defined in clause (60) of section 2 of the Companies Act, 2013 or a designated partner as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008, as the case may be;

(20) "operational creditor" means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;

(21) "operational debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of the repayment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority;

(22) "personal guarantor" means an individual who is the surety in a contract of guarantee to a corporate debtor;

(23) "personnel" includes the directors, managers, key managerial personnel, designated partners and employees, if any, of the corporate debtor;

(24) "related party", in relation to a corporate debtor, means—

(a) a director or partner of the corporate debtor or a relative of a director or partner of the corporate debtor;

(b) a key managerial personnel of the corporate debtor or a relative of a key managerial personnel of the corporate debtor;

18 of 2013.

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(c) a limited liability partnership or a partnership firm in which a director, partner, or manager of the corporate debtor or his relative is a partner;

(d) a private company in which a director, partner or manager of the corporate debtor is a director and holds along with his relatives, more than two per cent. of its share capital;

(e) a public company in which a director, partner or manager of the corporate debtor is a director and holds along with relatives, more than two per cent. of its paid-up share capital;

(f) anybody corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;

(g) any limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;

(h) any person on whose advice, directions or instructions, a director, partner or manager of the corporate debtor is accustomed to act;

(i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary;

(j) any person who controls more than twenty per cent. of voting rights in the corporate debtor on account of ownership or a voting agreement;

(k) any person in whom the corporate debtor controls more than twenty per cent. of voting rights on account of ownership or a voting agreement;

(l) any person who can control the composition of the board of directors or corresponding governing body of the corporate debtor;

(m) any person who is associated with the corporate debtor on account of—

(i) participation in policy making processes of the corporate debtor; or

(ii) having more than two directors in common between the corporate debtor and such person; or

(iii) interchange of managerial personnel between the corporate debtor and such person; or

(iv) provision of essential technical information to, or from, the corporate debtor;

(25) "resolution applicant" means any person who submits a resolution plan to the resolution professional;

(26) "resolution plan" means a plan proposed by any person for insolvency resolution of the corporate debtor as a going concern in accordance with Part II;

(27) "resolution professional", for the purposes of this Part, means an insolvency professional appointed to conduct the corporate insolvency resolution process and includes an interim resolution professional; and

(28) "voting share" means the share of the voting rights of a single financial creditor in the committee of creditors which is based on the proportion of the financial debt owed to such financial creditor in relation to the financial debt owed by the corporate debtor.



## CHAPTER II

## CORPORATE INSOLVENCY RESOLUTION PROCESS

6. Where any corporate debtor commits a default, a financial creditor, an operational creditor or the corporate debtor itself may initiate corporate insolvency resolution process in respect of such corporate debtor in the manner as provided under this Chapter.

Persons who may initiate corporate insolvency resolution process.

7. (1) A financial creditor either by itself or jointly with other financial creditors may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.

Initiation of corporate insolvency resolution process by financial creditor.

*Explanation.*—For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.

(2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.

(3) The financial creditor shall, along with the application furnish—

(a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;

(b) the name of the resolution professional proposed to act as an interim resolution professional; and

(c) any other information as may be specified by the Board.

(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3).

(5) Where the Adjudicating Authority is satisfied that—

(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or

(b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application:

Provided that the Adjudicating Authority shall, before rejecting the application under clause (b) of sub-section (5), give a notice to the applicant to rectify the defect in his application within seven days of receipt of such notice from the Adjudicating Authority.

(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5).

(7) The Adjudicating Authority shall communicate—

(a) the order under clause (a) of sub-section (5) to the financial creditor and the corporate debtor;

(b) the order under clause (b) of sub-section (5) to the financial creditor,

within seven days of admission or rejection of such application, as the case may be.

8. (1) An operational creditor may, on the occurrence of a default, deliver a demand notice of unpaid operational debt copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form and manner as may be prescribed.

Insolvency resolution by operational creditor.



(2) The corporate debtor shall, within a period of ten days of the receipt of the demand notice or copy of the invoice mentioned in sub-section (1) bring to the notice of the operational creditor—

(a) existence of a dispute, if any, and record of the pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoice in relation to such dispute;

(b) the repayment of unpaid operational debt—

(i) by sending an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or

(ii) by sending an attested copy of record that the operational creditor has encashed a cheque issued by the corporate debtor.

*Explanation.*—For the purposes of this section, a "demand notice" means a notice served by an operational creditor to the corporate debtor demanding repayment of the operational debt in respect of which the default has occurred.

9. (1) After the expiry of the period of ten days from the date of delivery of the notice or invoice demanding payment under sub-section (1) of section 8, if the operational creditor does not receive payment from the corporate debtor or notice of the dispute under sub-section (2) of section 8, the operational creditor may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process.

(2) The application under sub-section (1) shall be filed in such form and manner and accompanied with such fee as may be prescribed.

(3) The operational creditor shall, along with the application furnish—

(a) a copy of the invoice demanding payment or demand notice delivered by the operational creditor to the corporate debtor;

(b) an affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt;

(c) a copy of the certificate from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt by the corporate debtor; and

(d) such other information as may be specified.

(4) An operational creditor initiating a corporate insolvency resolution process under this section, may propose a resolution professional to act as an interim resolution professional.

(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order—

(i) admit the application and communicate such decision to the operational creditor and the corporate debtor if,—

(a) the application made under sub-section (2) is complete;

(b) there is no repayment of the unpaid operational debt;

(c) the invoice or notice for payment to the corporate debtor has been delivered by the operational creditor;

(d) no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility; and

(e) there is no disciplinary proceeding pending against any resolution professional proposed under sub-section (4), if any.

Application  
for initiation  
of corporate  
insolvency  
resolution  
process by  
operational  
creditor.



(ii) reject the application and communicate such decision to the operational creditor and the corporate debtor, if—

- (a) the application made under sub-section (2) is incomplete;
- (b) there has been repayment of the unpaid operational debt;
- (c) the creditor has not delivered the invoice or notice for payment to the corporate debtor;
- (d) notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility; or
- (e) any disciplinary proceeding is pending against any proposed resolution professional;

Provided that Adjudicating Authority, shall before rejecting an application under sub-clause (a) of clause (ii) give a notice to the applicant to rectify the defect in his application within seven days of the date of receipt of such notice from the adjudicating Authority.

(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5) of this section.

10. (1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.

Initiation of corporate insolvency resolution process by corporate applicant.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.

(3) The corporate applicant shall, along with the application furnish the information relating to—

- (a) its books of account and such other documents relating to such period as may be specified; and
- (b) the resolution professional proposed to be appointed as an interim resolution professional.

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order—

- (a) admit the application, if it is complete; or
- (b) reject the application, if it is incomplete:

Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.

11. The following persons shall not be entitled to make an application to initiate corporate insolvency resolution process under this Chapter, namely:—

Persons not entitled to make application.

- (a) a corporate debtor undergoing a corporate insolvency resolution process; or
- (b) a corporate debtor having completed corporate insolvency resolution process twelve months preceding the date of making of the application; or
- (c) a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under this Chapter; or
- (d) a corporate debtor in respect of whom a liquidation order has been made.



*Explanation.*—For the purposes of this section, a corporate debtor includes a corporate applicant in respect of such corporate debtor.

Time-limit for completion of insolvency resolution process.

12. (1) Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.

(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of seventy-five per cent. of the voting shares.

(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:

Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once.

Declaration of moratorium and public announcement.

13. (1) The Adjudicating Authority, after admission of the application under section 7 or section 9 or section 10, shall, by an order—

(a) declare a moratorium for the purposes referred to in section 14;

(b) cause a public announcement of the initiation of corporate insolvency resolution process and call for the submission of claims under section 15; and

(c) appoint an interim resolution professional in the manner as laid down in section 16.

(2) The public announcement referred to in clause (b) of sub-section (1) shall be made immediately after the appointment of the interim resolution professional.

Moratorium.

14. (1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:



Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

15. (1) The public announcement of the corporate insolvency resolution process under the order referred to in section 13 shall contain the following information, namely:—

Public announcement of corporate insolvency resolution process.

(a) name and address of the corporate debtor under the corporate insolvency resolution process;

(b) name of the authority with which the corporate debtor is incorporated or registered;

(c) the last date for submission of claims;

(d) details of the interim resolution professional who shall be vested with the management of the corporate debtor and be responsible for receiving claims;

(e) penalties for false or misleading claims; and

(f) the date on which the corporate insolvency resolution process shall close, which shall be the one hundred and eightieth day from the date of the admission of the application under sections 7, 9 or section 10, as the case may be.

(2) The public announcement under this section shall be made in such manner as may be specified.

16. (1) The Adjudicating Authority shall appoint an interim resolution professional within fourteen days from the insolvency commencement date.

Appointment and tenure of interim resolution professional.

(2) Where the application for corporate insolvency resolution process is made by a financial creditor or the corporate debtor, as the case may be, the resolution professional, as proposed respectively in the application under section 7 or section 10, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

(3) Where the application for corporate insolvency resolution process is made by an operational creditor and—

(a) no proposal for an interim resolution professional is made, the Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional;

(b) a proposal for an interim resolution professional is made under sub-section (4) of section 9, the resolution professional as proposed, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

(4) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (3), recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(5) The term of the interim resolution professional shall not exceed thirty days from date of his appointment.

17. (1) From the date of appointment of the interim resolution professional,—

Management of affairs of corporate debtor by interim resolution professional.

(a) the management of the affairs of the corporate debtor shall vest in the interim resolution professional;

(b) the powers of the board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended and be exercised by the interim resolution professional;



(c) the officers and managers of the corporate debtor shall report to the interim resolution professional and provide access to such documents and records of the corporate debtor as may be required by the interim resolution professional;

(d) the financial institutions maintaining accounts of the corporate debtor shall act on the instructions of the interim resolution professional in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.

(2) The interim resolution professional vested with the management of the corporate debtor shall—

(a) act and execute in the name and on behalf of the corporate debtor all deeds, receipts, and other documents, if any;

(b) take such actions, in the manner and subject to such restrictions, as may be specified by the Board;

(c) have the authority to access the electronic records of corporate debtor from information utility having financial information of the corporate debtor;

(d) have the authority to access the books of account, records and other relevant documents of corporate debtor available with government authorities, statutory auditors, accountants and such other persons as may be specified.

Duties of  
interim  
resolution  
professional.

18. The interim resolution professional shall perform the following duties, namely:—

(a) collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor, including information relating to—

(i) business operations for the previous two years;

(ii) financial and operational payments for the previous two years;

(iii) list of assets and liabilities as on the initiation date; and

(iv) such other matters as may be specified;

(b) receive and collate all the claims submitted by creditors to him, pursuant to the public announcement made under sections 13 and 15;

(c) constitute a committee of creditors;

(d) monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors;

(e) file information collected with the information utility, if necessary; and

(f) take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry that records the ownership of assets including—

(i) assets over which the corporate debtor has ownership rights which may be located in a foreign country;

(ii) assets that may or may not be in possession of the corporate debtor;

(iii) tangible assets, whether movable or immovable;

(iv) intangible assets including intellectual property;

(v) securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies;



(vi) assets subject to the determination of ownership by a court or authority;

(g) to perform such other duties as may be specified by the Board.

*Explanation.*—For the purposes of this sub-section, the term "assets" shall not include the following, namely:—

(a) assets owned by a third party in possession of the corporate debtor held under trust or under contractual arrangements including bailment;

(b) assets of any Indian or foreign subsidiary of the corporate debtor; and

(c) such other assets as may be notified by the Central Government in consultation with any financial sector regulator.

19. (1) The personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor shall extend all assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the corporate debtor.

Personnel to extend co-operation to interim resolution professional.

(2) Where any personnel of the corporate debtor, its promoter or any other person required to assist or cooperate with the interim resolution professional does not assist or cooperate, the interim resolution professional may make an application to the Adjudicating Authority for necessary directions.

(3) The Adjudicating Authority, on receiving an application under sub-section (2), shall by an order, direct such personnel or other person to comply with the instructions of the resolution professional and to cooperate with him in collection of information and management of the corporate debtor.

20. (1) The interim resolution professional shall make every endeavour to protect and preserve the value of the property of the corporate debtor and manage the operations of the corporate debtor as a going concern.

Management of operations of corporate debtor as going concern.

(2) For the purposes of sub-section (1), the interim resolution professional shall have the authority—

(a) to appoint accountants, legal or other professionals as may be necessary;

(b) to enter into contracts on behalf of the corporate debtor or to amend or modify the contracts or transactions which were entered into before the commencement of corporate insolvency resolution process;

(c) to raise interim finance provided that no security interest shall be created over any encumbered property of the corporate debtor without the prior consent of the creditors whose debt is secured over such encumbered property;

Provided that no prior consent of the creditor shall be required where the value of such property is not less than the amount equivalent to twice the amount of the debt.

(d) to issue instructions to personnel of the corporate debtor as may be necessary for keeping the corporate debtor as a going concern; and

(e) to take all such actions as are necessary to keep the corporate debtor as a going concern.

21. (1) The interim resolution professional shall after collation of all claims received against the corporate debtor and determination of the financial position of the corporate debtor, constitute a committee of creditors.

Committee of creditors.

(2) The committee of creditors shall comprise all financial creditors of the corporate debtor.

Provided that a related party to whom a corporate debtor owes a financial debt shall not have any right of representation, participation or voting in a meeting of the committee of creditors.



(3) Where the corporate debtor owes financial debts to two or more financial creditors as part of a consortium or agreement, each such financial creditor shall be part of the committee of creditors and their voting share shall be determined on the basis of the financial debts owed to them.

(4) Where any person is a financial creditor as well as an operational creditor,—

(a) such person shall be a financial creditor to the extent of the financial debt owed by the corporate debtor, and shall be included in the committee of creditors, with voting share proportionate to the extent of financial debts owed to such creditor;

(b) such person shall be considered to be an operational creditor to the extent of the operational debt owed by the corporate debtor to such creditor.

(5) Where an operational creditor has assigned or legally transferred any operational debt to a financial creditor, the assignee or transferee shall be considered as an operational creditor to the extent of such assignment or legal transfer.

(6) Where the terms of the financial debt extended as part of a consortium arrangement or syndicated facility or issued as securities provide for a single trustee or agent to act for all financial creditors, each financial creditor may—

(a) authorise the trustee or agent to act on his behalf in the committee of creditors to the extent of his voting share;

(b) represent himself in the committee of creditors to the extent of his voting share;

(c) appoint an insolvency professional (other than the resolution professional) at his own cost to represent himself in the committee of creditors to the extent of his voting share; or

(d) exercise his right to vote to the extent of his voting share with one or more financial creditors jointly or severally.

(7) The Board may specify the manner of determining the voting share in respect of financial debts issued as securities under sub-section (6).

(8) All decisions of the committee of creditors shall be taken by a vote of not less than seventy-five per cent. of voting share of the financial creditors:

Provided that where a corporate debtor does not have any financial creditors, the committee of creditors shall be constituted and comprise of such persons to exercise such functions in such manner as may be specified by the Board.

(9) The committee of creditors shall have the right to require the resolution professional to furnish any financial information in relation to the corporate debtor at any time during the corporate insolvency resolution process.

(10) The resolution professional shall make available any financial information so required by the committee of creditors under sub-section (9) within a period of seven days of such requisition.

22. (1) The first meeting of the committee of creditors shall be held within seven days of the constitution of the committee of creditors.

(2) The committee of creditors, may, in the first meeting, by a majority vote of not less than seventy-five per cent. of the voting share of the financial creditors, either resolve to appoint the interim resolution professional as a resolution professional or to replace the interim resolution professional by another resolution professional.

(3) Where the committee of creditors resolves under sub-section (2)—



(a) to continue the interim resolution professional as resolution professional, it shall communicate its decision to the interim resolution professional, the corporate debtor and the Adjudicating Authority; or

(b) to replace the interim resolution professional, it shall file an application before the Adjudicating Authority for the appointment of the proposed resolution professional.

(4) The Adjudicating Authority shall forward the name of the resolution professional proposed under clause (b) of sub-section (3) to the Board for its confirmation and shall make such appointment after confirmation by the Board.

(5) Where the Board does not confirm the name of the proposed resolution professional within ten days of the receipt of the name of the proposed resolution professional, the Adjudicating Authority shall, by order, direct the interim resolution professional to continue to function as the resolution professional until such time as the Board confirms the appointment of the proposed resolution professional.

23. (1) Subject to section 27, the resolution professional shall conduct the entire corporate insolvency resolution process and manage the operations of the corporate debtor during the corporate insolvency resolution process period.

Resolution professional to conduct corporate insolvency resolution process.

(2) The resolution professional shall exercise powers and perform duties as are vested or conferred on the interim resolution professional under this Chapter.

(3) In case of any appointment of a resolution professional under sub-sections (4) of section 22, the interim resolution professional shall provide all the information, documents and records pertaining to the corporate debtor in his possession and knowledge to the resolution professional.

24. (1) The members of the committee of creditors may meet in person or by such electronic means as may be specified.

Meeting of committee of creditors.

(2) All meetings of the committee of creditors shall be conducted by the resolution professional.

(3) The resolution professional shall give notice of each meeting of the committee of creditors to—

(a) members of Committee of creditors;

(b) members of the suspended Board of Directors or the partners of the corporate persons, as the case may be;

(c) operational creditors or their representatives if the amount of their aggregate dues is not less than ten per cent. of the debt.

(4) The directors, partners and one representative of operational creditors, as referred to in sub-section (3), may attend the meetings of committee of creditors, but shall not have any right to vote in such meetings:

Provided that the absence of any such direct or, partner or representative of operational creditors, as the case may be, shall not invalidate proceedings of such meeting.

(5) Any creditor who is a member of the committee of creditors may appoint an insolvency professional other than the resolution professional to represent such creditor in a meeting of the committee of creditors:

Provided that the fees payable to such insolvency professional representing any individual creditor will be borne by such creditor.



(6) Each creditor shall vote in accordance with the voting share assigned to him based on the financial debts owed to such creditor.

(7) The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board.

(8) The meetings of the committee of creditors shall be conducted in such manner as may be specified.

Duties of  
resolution  
professional.

25. (1) It shall be the duty of the resolution professional to ~~preserve~~ and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.

(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely:—

(a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;

(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;

(c) raise interim finances subject to the approval of the committee of creditors under section 28;

(d) appoint accountants, legal or other professionals in the manner as specified by Board;

(e) maintain an updated list of claims;

(f) convene and attend all meetings of the committee of creditors;

(g) prepare the information memorandum in accordance with section 29;

(h) invite prospective lenders, investors, and any other persons to put forward resolution plans;

(i) present all resolution plans at the meetings of the committee of creditors;

(j) file application for avoidance of transactions in accordance with Chapter III, if any; and

(k) such other actions as may be specified by the Board.

Application  
for avoidance  
of  
transactions  
not to affect  
proceedings.

26. The filing of an avoidance application under clause (j) of sub-section (2) of section 25 by the resolution professional shall not affect the proceedings of the corporate insolvency resolution process.

Replacement  
of resolution  
professional by  
committee of  
creditors.

27. (1) Where, at any time during the corporate insolvency resolution process, the committee of creditors is of the opinion that a resolution professional appointed under section 22 is required to be replaced, it may replace him with another resolution professional in the manner provided under this section.

(2) The committee of creditors may, at a meeting, by a vote of seventy five per cent. of voting shares, propose to replace the resolution professional appointed under section 22 with another resolution professional.

(3) The committee of creditors shall forward the name of the insolvency professional proposed by them to the Adjudicating Authority.

(4) The Adjudicating Authority shall forward the name of the proposed resolution professional to the Board for its confirmation and a resolution professional shall be appointed in the same manner as laid down in section 16.



(5) Where any disciplinary proceedings are pending against the proposed resolution professional under sub-section (3), the resolution professional appointed under section 22 shall continue till the appointment of another resolution professional under this section.

28. (1) Notwithstanding anything contained in any other law for the time being in force, the resolution professional, during the corporate insolvency resolution process, shall not take any of the following actions without the prior approval of the committee of creditors namely:—

Approval of committee of creditors for certain actions.

(a) raise any interim finance in excess of the amount as may be decided by the committee of creditors in their meeting;

(b) create any security interest over the assets of the corporate debtor;

(c) change the capital structure of the corporate debtor, including by way of issuance of additional securities, creating a new class of securities or buying back or redemption of issued securities in case the corporate debtor is a company;

(d) record any change in the ownership interest of the corporate debtor;

(e) give instructions to financial institutions maintaining accounts of the corporate debtor for a debit transaction from any such accounts in excess of the amount as may be decided by the committee of creditors in their meeting;

(f) undertake any related party transaction;

(g) amend any constitutional documents of the corporate debtor;

(h) delegate its authority to any other person;

(i) dispose of or permit the disposal of shares of any shareholder of the corporate debtor or their nominees to third parties;

(j) make any change in the management of the corporate debtor or its subsidiary;

(k) transfer rights or financial debts or operational debts under material contracts otherwise than in the ordinary course of business;

(l) make changes in the appointment or terms of contract of such personnel as specified by the committee of creditors; or

(m) make changes in the appointment or terms of contract of statutory auditors or internal auditors of the corporate debtor.

(2) The resolution professional shall convene a meeting of the committee of creditors and seek the vote of the creditors prior to taking any of the actions under sub-section (1).

(3) No action under sub-section (1) shall be approved by the committee of creditors unless approved by a vote of seventy five per cent. of the voting shares.

(4) Where any action under sub-section (1) is taken by the resolution professional without seeking the approval of the committee of creditors in the manner as required in this section, such action shall be void.

(5) The committee of creditors may report the actions of the resolution professional under sub-section (4) to the Board for taking necessary actions against him under this Code.

29. (1) The resolution professional shall prepare an information memorandum in such form and manner containing such relevant information as may be specified by the Board for formulating a resolution plan.

Preparation of information memorandum.

(2) The resolution professional shall provide to the resolution applicant access to all



relevant information in physical and electronic form, provided such resolution applicant undertakes—

(a) to comply with provisions of law for the time being in force relating to confidentiality and insider trading;

(b) to protect any intellectual property of the corporate debtor it may have access to; and

(c) not to share relevant information with third parties unless clauses (a) and (b) of this sub-section are complied with.

*Explanation.*—For the purposes of this section, "relevant information" means the information required by the resolution applicant to make the resolution plan for the corporate debtor, which shall include the financial position of the corporate debtor, all information related to disputes by or against the corporate debtor and any other matter pertaining to the corporate debtor as may be specified.

Submission of  
resolution  
plan.

30. (1) A resolution applicant may submit a resolution plan to the resolution professional prepared on the basis of the information memorandum.

(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan—

(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor;

(b) provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under section 53;

(c) provides for the management of the affairs of the Corporate debtor after approval of the resolution plan;

(d) the implementation and supervision of the resolution plan;

(e) does not contravene any of the provisions of the law for the time being in force;

(f) conforms to such other requirements as may be specified by the Board.

(3) The resolution professional shall present to the committee of creditors for its approval such resolution plans which confirm the conditions referred to in sub-section (2).

(4) The committee of creditors may approve a resolution plan by a vote of not less than seventy five per cent. of voting share of the financial creditors.

(5) The resolution applicant may attend the meeting of the committee of creditors in which the resolution plan of the applicant is considered:

Provided that the resolution applicant shall not have a right to vote at the meeting of the committee of creditors unless such resolution applicant is also a financial creditor.

(6) The resolution professional shall submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority.

Approval of  
resolution  
plan.

31. (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan.



(2) Where the Adjudicating Authority is satisfied that the resolution plan does not confirm to the requirements referred to in sub-section (1), it may, by an order, reject the resolution plan.

(3) After the order of approval under sub-section (1),—

(a) the moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and

(b) the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.

32. Any appeal from an order approving the resolution plan shall be in the manner and on the grounds laid down in sub-section (3) of section 61. Appeal.

### CHAPTER III

#### LIQUIDATION PROCESS

33. (1) Where the Adjudicating Authority, —

Initiation of  
liquidation.

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,

it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(3) Where the resolution plan approved by the Adjudicating Authority is contravened by the concerned corporate debtor, any person other than the corporate debtor, whose interests are prejudicially affected by such contravention, may make an application to the Adjudicating Authority for a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(4) On receipt of an application under sub-section (3), if the Adjudicating Authority determines that the corporate debtor has contravened the provisions of the resolution plan, it shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(5) Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:

Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority.



(6) The provisions of sub-section (5) shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(7) The order for liquidation under this section shall be deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator.

34. (1) Where the Adjudicating Authority passes an order for liquidation of the corporate debtor under section 33, the resolution professional appointed for the corporate insolvency resolution process under Chapter II shall act as the liquidator for the purposes of liquidation unless replaced by the Adjudicating Authority under sub-section (4).

(2) On the appointment of a liquidator under this section, all powers of the board of directors, key managerial personnel and the partners of the corporate debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator.

(3) The personnel of the corporate debtor shall extend all assistance and cooperation to the liquidator as may be required by him in managing the affairs of the corporate debtor and provisions of section 19 shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the interim resolution professional.

(4) The Adjudicating Authority shall by order replace the resolution professional, if—

(a) the resolution plan submitted by the resolution professional under section 30 was rejected for failure to meet the requirements mentioned in sub-section (2) of section 30; or

(b) the Board recommends the replacement of a resolution professional to the Adjudicating Authority for reasons to be recorded in writing.

(5) For the purposes of clause (a) of sub-section (4), the Adjudicating Authority may direct the Board to propose the name of another insolvency professional to be appointed as a liquidator.

(6) The Board shall propose the name of another insolvency professional within ten days of the direction issued by the Adjudicating Authority under sub-section (5).

(7) The Adjudicating Authority shall, on receipt of the proposal of the Board for the appointment of an insolvency professional as liquidator, by an order appoint such insolvency professional as the liquidator.

(8) An insolvency professional proposed to be appointed as a liquidator shall charge such fee for the conduct of the liquidation proceedings and in such proportion to the value of the liquidation estate assets, as may be specified by the Board.

(9) The fees for the conduct of the liquidation proceedings under sub-section (8) shall be paid to the liquidator from the proceeds of the liquidation estate under section 53.

35. (1) Subject to the directions of the Adjudicating Authority, the liquidator shall have the following powers and duties, namely:—

(a) to verify claims of all the creditors;

(b) to take into his custody or control all the assets, property, effects and actionable claims of the corporate debtor;

(c) to evaluate the assets and property of the corporate debtor in the manner as may be specified by the Board and prepare a report;

(d) to take such measures to protect and preserve the assets and properties of the corporate debtor as he considers necessary;

Appointment  
of liquidator  
and fee to be  
paid.

Powers and  
duties of  
liquidator.



(e) to carry on the business of the corporate debtor for its beneficial liquidation as he considers necessary;

(f) subject to section 52, to sell the immovable and movable property and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels in such manner as may be specified;

(g) to draw, accept, make and endorse any negotiable instruments including bill of exchange, hundi or promissory note in the name and on behalf of the corporate debtor, with the same effect with respect to the liability as if such instruments were drawn, accepted, made or endorsed by or on behalf of the corporate debtor in the ordinary course of its business;

(h) to take out, in his official name, letter of administration to any deceased contributory and to do in his official name any other act necessary for obtaining payment of any money due and payable from a contributory or his estate which cannot be ordinarily done in the name of the corporate debtor, and in all such cases, the money due and payable shall, for the purpose of enabling the liquidator to take out the letter of administration or recover the money, be deemed to be due to the liquidator himself;

(i) to obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities;

(j) to invite and settle claims of creditors and claimants and distribute proceeds in accordance with the provisions of this Code;

(k) to institute or defend any suit, prosecution or other legal proceedings, civil or criminal, in the name of or on behalf of the corporate debtor;

(l) to investigate the financial affairs of the corporate debtor to determine undervalued or preferential transactions;

(m) to take all such actions, steps, or to sign, execute and verify any paper, deed, receipt document, application, petition, affidavit, bond or instrument and for such purpose to use the common seal, if any, as may be necessary for liquidation, distribution of assets and in discharge of his duties and obligations and functions as liquidator;

(n) to apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor and to report the progress of the liquidation process in a manner as may be specified by the Board; and

(o) to perform such other functions as may be specified by the Board.

(2) The liquidator shall have the power to consult any of the stakeholders entitled to a distribution of proceeds under section 53:

Provided that any such consultation shall not be binding on the liquidator:

Provided further that the records of any such consultation shall be made available to all other stakeholders not so consulted, in a manner specified by the Board.

36. (1) For the purposes of liquidation, the liquidator shall form an estate of the assets mentioned in sub-section (3), which will be called the liquidation estate in relation to the corporate debtor.

Liquidation  
estate.

(2) The liquidator shall hold the liquidation estate as a fiduciary for the benefit of all the creditors.

(3) Subject to sub-section (4), the liquidation estate shall comprise all liquidation estate assets which shall include the following:—



(a) any assets over which the corporate debtor has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the corporate debtor or an information utility or records in the registry or any depository recording securities of the corporate debtor or by any other means as may be specified by the Board, including shares held in any subsidiary of the corporate debtor;

(b) assets that may or may not be in possession of the corporate debtor including but not limited to encumbered assets;

(c) tangible assets, whether movable or immovable;

(d) intangible assets including but not limited to intellectual property, securities (including shares held in a subsidiary of the corporate debtor) and financial instruments, insurance policies, contractual rights;

(e) assets subject to the determination of ownership by the court or authority;

(f) any assets or their value recovered through proceedings for avoidance of transactions in accordance with this Chapter;

(g) any asset of the corporate debtor in respect of which a secured creditor has relinquished security interest;

(h) any other property belonging to or vested in the corporate debtor at the insolvency commencement date; and

(i) all proceeds of liquidation as and when they are realised.

(4) The following shall not be included in the liquidation estate assets and shall not be used for recovery in the liquidation:—

(a) assets owned by a third party which are in possession of the corporate debtor, including—

(i) assets held in trust for any third party;

(ii) bailment contracts;

(iii) all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund;

(iv) other contractual arrangements which do not stipulate transfer of title but only use of the assets; and

(v) such other assets as may be notified by the Central Government in consultation with any financial sector regulator;

(b) assets in security collateral held by financial services providers and are subject to netting and set-off in multi-lateral trading or clearing transactions;

(c) personal assets of any shareholder or partner of a corporate debtor as the case may be provided such assets are not held on account of avoidance transactions that may be avoided under this Chapter;

(d) assets of any Indian or foreign subsidiary of the corporate debtor; or

(e) any other assets as may be specified by the Board, including assets which could be subject to set-off on account of mutual dealings between the corporate debtor and any creditor.

37. (1) Notwithstanding anything contained in any other law for the time being in force, the liquidator shall have the power to access any information systems for the purpose of admission and proof of claims and identification of the liquidation estate assets relating to the corporate debtor from the following sources, namely:—



- (a) an information utility;
- (b) credit information systems regulated under any law for the time being in force;
- (c) any agency of the Central, State or Local Government including any registration authorities;
- (d) information systems for financial and non-financial liabilities regulated under any law for the time being in force;
- (e) information systems for securities and assets posted as security interest regulated under any law for the time being in force;
- (f) any database maintained by the Board; and
- (g) any other source as may be specified by the Board.

(2) The creditors may require the liquidator to provide them any financial information relating to the corporate debtor in such manner as may be specified.

(3) The liquidator shall provide information referred to in sub-section (2) to such creditors who have requested for such information within a period of seven days from the date of such request or provide reasons for not providing such information.

38. (1) The liquidator shall receive or collect the claims of creditors within a period of thirty days from the date of the commencement of the liquidation process.

Consolidation  
of claims.

(2) A financial creditor may submit a claim to the liquidator by providing a record of such claim with an information utility:

Provided that where the information relating to the claim is not recorded in the information utility, the financial creditor may submit the claim in the same manner as provided for the submission of claims for the operational creditor under sub-section (3).

(3) An operational creditor may submit a claim to the liquidator in such form and in such manner and along with such supporting documents required to prove the claim as may be specified by the Board.

(4) A creditor who is partly a financial creditor and partly an operational creditor shall submit claims to the liquidator to the extent of his financial debt in the manner as provided in sub-section (2) and to the extent of his operational debt under sub-section (3).

(5) A creditor may withdraw or vary his claim under this section within fourteen days of its submission.

39. (1) The liquidator shall verify the claims submitted under section 38 within such time as specified by the Board.

Verification  
of claims.

(2) The liquidator may require any creditor or the corporate debtor or any other person to produce any other document or evidence which he thinks necessary for the purpose of verifying the whole or any part of the claim.

40. (1) The liquidator may, after verification of claims under section 39, either admit or reject the claim, in whole or in part, as the case may be:

Admission or  
rejection of  
claims.

Provided that where the liquidator rejects a claim, he shall record in writing the reasons for such rejection.

(2) The liquidator shall communicate his decision of admission or rejection of claims to the creditor and corporate debtor within seven days of such admission or rejection of claims.



Determination  
of valuation of  
claims.

41. The liquidator shall determine the value of claims admitted under section 40 in such manner as may be specified by the Board.

Appeal  
against the  
decision of  
liquidator.

42. A creditor may appeal to the Adjudicating Authority against the decision of the liquidator rejecting the claims within fourteen days of the receipt of such decision.

Preferential  
transactions  
and relevant  
time.

43. (1) Where the liquidator or the resolution professional, as the case may be, is of the opinion that the corporate debtor has at a relevant time given a preference in such transactions and in such manner as laid down in sub-section (2) to any persons as referred to in sub-section (4), he shall apply to the Adjudicating Authority for avoidance of preferential transactions and for, one or more of the orders referred to in section 44.

(2) A corporate debtor shall be deemed to have given a preference, if—

(a) there is a transfer of property or an interest thereof of the corporate debtor for the benefit of a creditor or a surety or a guarantor for or on account of an antecedent financial debt or operational debt or other liabilities owed by the corporate debtor; and

(b) the transfer under clause (a) has the effect of putting such creditor or a surety or a guarantor in a beneficial position than it would have been in the event of a distribution of assets being made in accordance with section 53.

(3) For the purposes of sub-section (2), a preference shall not include the following transfers—

(a) transfer made in the ordinary course of the business or financial affairs of the corporate debtor or the transferee;

(b) any transfer creating a security interest in property acquired by the corporate debtor to the extent that—

(i) such security interest secures new value and was given at the time of or after the signing of a security agreement that contains a description of such property as security interest and was used by corporate debtor to acquire such property; and

(ii) such transfer was registered with an information utility on or before thirty days after the corporate debtor receives possession of such property:

Provided that any transfer made in pursuance of the order of a court shall not, preclude such transfer to be deemed as giving of preference by the corporate debtor.

*Explanation.*—For the purpose of sub-section (3) of this section, "new value" means money or its worth in goods, services, or new credit, or release by the transferee of property previously transferred to such transferee in a transaction that is neither void nor voidable by the liquidator or the resolution professional under this Code, including proceeds of such property, but does not include a financial debt or operational debt substituted for existing financial debt or operational debt.

(4) A preference shall be deemed to be given at a relevant time, if—

(a) it is given to a related party (other than by reason only of being an employee), during the period of two years preceding the insolvency commencement date; or

(b) a preference is given to a person other than a related party during the period of one year preceding the insolvency commencement date.

Orders in case  
of preferential  
transactions.

44. The Adjudicating Authority, may, on an application made by the resolution professional or liquidator under sub-section (1) of section 43, by an order :



(a) require any property transferred in connection with the giving of the preference to be vested in the corporate debtor;

(b) require any property to be so vested if it represents the application either of the proceeds of sale of property so transferred or of money so transferred;

(c) release or discharge (in whole or in part) of any security interest created by the corporate debtor;

(d) require any person to pay such sums in respect of benefits received by him from the corporate debtor, such sums to the liquidator or the resolution professional, as the Adjudicating Authority may direct;

(e) direct any guarantor, whose financial debts or operational debts owed to any person were released or discharged (in whole or in part) by the giving of the preference, to be under such new or revived financial debts or operational debts to that person as the Adjudicating Authority deems appropriate;

(f) direct for providing security or charge on any property for the discharge of any financial debt or operational debt under the order, and such security or charge to have the same priority as a security or charge released or discharged wholly or in part by the giving of the preference; and

(g) direct for providing the extent to which any person whose property is so vested in the corporate debtor, or on whom financial debts or operational debts are imposed by the order, are to be proved in the liquidation or the corporate insolvency resolution process for financial debts or operational debts which arose from, or were released or discharged wholly or in part by the giving of the preference:

Provided that an order under this section shall not—

(a) affect any interest in property which was acquired from a person other than the corporate debtor or any interest derived from such interest and was acquired in good faith and for value;

(b) require a person, who received a benefit from the preferential transaction in good faith and for value to pay a sum to the liquidator or the resolution professional.

*Explanation I.*—For the purpose of this section, it is clarified that where a person, who has acquired an interest in property from another person other than the corporate debtor, or who has received a benefit from the preference or such another person to whom the corporate debtor gave the preference,—

(i) had sufficient information of the initiation or commencement of insolvency resolution process of the corporate debtor;

(ii) is a related party,

it shall be presumed that the interest was acquired or the benefit was received otherwise than in good faith unless the contrary is shown.

*Explanation II.*—A person shall be deemed to have sufficient information or opportunity to avail such information if a public announcement regarding the corporate insolvency resolution process has been made under section 13.

45. (1) If the liquidator or the resolution professional, as the case may be, on an examination of the transactions of the corporate debtor referred to in sub-section (2) of section 43 determines that certain transactions were made during the relevant period under section 46, which were undervalued, he shall make an application to the Adjudicating Authority to declare such transactions as void and reverse the effect of such transaction in accordance with this Chapter.

Avoidance of undervalued transactions.



(2) A transaction shall be considered undervalued where the corporate debtor—

(a) makes a gift to a person; or

(b) enters into a transaction with a person which involves the transfer of one or more assets by the corporate debtor for a consideration the value of which is significantly less than the value of the consideration provided by the corporate debtor,

and such transaction has not taken place in the ordinary course of business of the corporate debtor.

Relevant  
period for  
avoidable  
transactions.

46. (1) In an application for avoiding a transaction at undervalue, the liquidator or the resolution professional, as the case may be, shall demonstrate that—

(i) such transaction was made with any person within the period of one year preceding the insolvency commencement date; or

(ii) such transaction was made with a related party within the period of two years preceding the insolvency commencement date.

(2) The Adjudicating Authority may require an independent expert to assess evidence relating to the value of the transactions mentioned in this section.

Application  
by creditor in  
cases of  
undervalued  
transactions.

47. (1) Where an undervalued transaction has taken place and the liquidator or the resolution professional as the case may be, has not reported it to the Adjudicating Authority, a creditor, member or a partner of a corporate debtor, as the case may be, may make an application to the Adjudicating Authority to declare such transactions void and reverse their effect in accordance with this Chapter.

(2) Where the Adjudicating Authority, after examination of the application made under sub-section (1), is satisfied that—

(a) undervalued transactions had occurred; and

(b) liquidator or the resolution professional, as the case may be, after having sufficient information or opportunity to avail information of such transactions did not report such transaction to the Adjudicating Authority,

it shall pass an order—

(a) restoring the position as it existed before such transactions and reversing the effects thereof in the manner as laid down in section 45 and section 48;

(b) requiring the Board to initiate disciplinary proceedings against the liquidator or the resolution professional as the case may be.

Order in cases  
of undervalued  
transactions.

48. The order of the Adjudicating Authority under sub-section (1) of section 45 may provide for the following:—

(a) require any property transferred as part of the transaction, to be vested in the corporate debtor;

(b) release or discharge (in whole or in part) any security interest granted by the corporate debtor;

(c) require any person to pay such sums, in respect of benefits received by such person, to the liquidator or the resolution professional as the case may be, as the Adjudicating Authority may direct; or

(d) require the payment of such consideration for the transaction as may be determined by an independent expert.



49. Where the corporate debtor has entered into an undervalued transaction as referred to in sub-section (2) of section 45 and the Adjudicating Authority is satisfied that such transaction was deliberately entered into by such corporate debtor—

Transactions  
defrauding  
creditors.

(a) for keeping assets of the corporate debtor beyond the reach of any person who is entitled to make a claim against the corporate debtor; or

(b) in order to adversely affect the interests of such a person in relation to the claim,

the Adjudicating Authority shall make an order—

(i) restoring the position as it existed before such transaction as if the transaction had not been entered into; and

(ii) protecting the interests of persons who are victims of such transactions:

Provided that an order under this section—

(a) shall not affect any interest in property which was acquired from a person other than the corporate debtor and was acquired in good faith, for value and without notice of the relevant circumstances, or affect any interest deriving from such an interest, and

(b) shall not require a person who received a benefit from the transaction in good faith, for value and without notice of the relevant circumstances to pay any sum unless he was a party to the transaction.

50. (1) Where the corporate debtor has been a party to an extortionate credit transaction involving the receipt of financial or operational debt during the period within two years preceding the insolvency commencement date, the liquidator or the resolution professional as the case may be, may make an application for avoidance of such transaction to the Adjudicating Authority if the terms of such transaction required exorbitant payments to be made by the corporate debtor.

Extortionate  
credit  
transactions.

(2) The Board may specify the circumstances in which a transactions which shall be covered under sub-section (1).

*Explanation.*—For the purpose of this section, it is clarified that any debt extended by any person providing financial services which is in compliance with any law for the time being in force in relation to such debt shall in no event be considered as an extortionate credit transaction.

51. Where the Adjudicating Authority after examining the application made under sub-section (1) of section 50 is satisfied that the terms of a credit transaction required exorbitant payments to be made by the corporate debtor, it shall, by an order—

Orders of  
Adjudicating  
Authority in  
respect of  
extortionate  
credit  
transactions.

(a) restore the position as it existed prior to such transaction;

(b) set aside the whole or part of the debt created on account of the extortionate credit transaction;

(c) modify the terms of the transaction;

(d) require any person who is, or was, a party to the transaction to repay any amount received by such person; or

(e) require any security interest that was created as part of the extortionate credit transaction to be relinquished in favour of the liquidator or the resolution professional, as the case may be.



Secured  
creditor in  
liquidation  
proceedings.

52. (1) A secured creditor in the liquidation proceedings may—

(a) relinquish its security interest to the liquidation estate and receive proceeds from the sale of assets by the liquidator in the manner specified in section 53; or

(b) realise its security interest in the manner specified in this section.

(2) Where the secured creditor realises security interest under clause (b) of sub-section (1), he shall inform the liquidator of such security interest and identify the asset subject to such security interest to be realised.

(3) Before any security interest is realised by the secured creditor under this section, the liquidator shall verify such security interest and permit the secured creditor to realise only such security interest, the existence of which may be proved either—

(a) by the records of such security interest maintained by an information utility; or

(b) by such other means as may be specified by the Board.

(4) A secured creditor may enforce, realise, settle, compromise or deal with the secured assets in accordance with such law as applicable to the security interest being realised and to the secured creditor and apply the proceeds to recover the debts due to it.

(5) If in the course of realising a secured asset, any secured creditor faces resistance from the corporate debtor or any person connected therewith in taking possession of, selling or otherwise disposing off the security, the secured creditor may make an application to the Adjudicating Authority to facilitate the secured creditor to realise such security interest in accordance with law for the time being in force.

(6) The Adjudicating Authority, on the receipt of an application from a secured creditor under sub-section (5) may pass such order as may be necessary to permit a secured creditor to realise security interest in accordance with law for the time being in force.

(7) Where the enforcement of the security interest under sub-section (4) yields an amount by way of proceeds which is in excess of the debts due to the secured creditor, the secured creditor shall—

(a) account to the liquidator for such surplus; and

(b) tender to the liquidator any surplus funds received from the enforcement of such secured assets.

(8) The amount of insolvency resolution process costs, due from secured creditors who realise their security interests in the manner provided in this section, shall be deducted from the proceeds of any realisation by such secured creditors, and they shall transfer such amounts to the liquidator to be included in the liquidation estate.

(9) Where the proceeds of the realisation of the secured assets are not adequate to repay debts owed to the secured creditor, the unpaid debts of such secured creditor shall be paid by the liquidator in the manner specified in clause (e) of sub-section (1) of section 53.

Distribution  
of assets.

53. (1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period and in such manner as may be specified, namely :—

(a) the insolvency resolution process costs and the liquidation costs paid in full;



(b) the following debts which shall rank equally between and among the following:—

(i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and

(ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;

(c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;

(d) financial debts owed to unsecured creditors;

(e) the following dues shall rank equally between and among the following:—

(i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;

(ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;

(f) any remaining debts and dues;

(g) preference shareholders, if any; and

(h) equity shareholders or partners, as the case may be.

(2) Any contractual arrangements between recipients under sub-section (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator.

(3) The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1), and the proceeds to the relevant recipient shall be distributed after such deduction.

*Explanation.*—For the purpose of this section—

(i) it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients, if the proceeds are insufficient to meet the debts in full; and

(ii) the term "workmen's dues" shall have the same meaning as assigned to it in section 326 of the Companies Act, 2013.

18 of 2013.

54. (1) Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.

Dissolution  
of corporate  
debtor.

(2) The Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.

(3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered.



## CHAPTER IV

## FAST TRACK CORPORATE INSOLVENCY RESOLUTION PROCESS

Fast track  
corporation  
insolvency  
resolution  
process.

55. (1) A corporate insolvency resolution process carried out in accordance with this Chapter shall be called as fast track corporate insolvency resolution process.

(2) An application for fast track corporate insolvency resolution process may be made in respect of the following corporate debtors, namely:—

(a) a corporate debtor with assets and income below a level as may be notified by the Central Government; or

(b) a corporate debtor with such class of creditors or such amount of debt as may be notified by the Central Government; or

(c) such other category of corporate persons as may be notified by the Central Government.

Time period  
for completion  
of fast track  
corporate  
insolvency  
resolution  
process.

56. (1) Subject to the provisions of sub-section (3), the fast track corporate insolvency resolution process shall be completed within a period of ninety days from the insolvency commencement date.

(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the fast track corporate insolvency resolution process beyond ninety days if instructed to do so by a resolution passed at a meeting of the committee of creditors and supported by a vote of seventy five percent of the voting share.

(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that fast track corporate insolvency resolution process cannot be completed within a period of ninety days, it may, by order, extend the duration of such process beyond the said period of ninety days by such further period, as it thinks fit, but not exceeding forty-five days:

Provided that any extension of the fast track corporate insolvency resolution process under this section shall not be granted more than once.

Manner of  
initiating fast  
track corporate  
insolvency  
resolution  
process.

57. An application for fast track corporate insolvency resolution process may be filed by a creditor or corporate debtor as the case may be, alongwith—

(a) the proof of the existence of default as evidenced by records available with an information-utility or such other means as may be specified by the Board; and

(b) such other information as may be specified by the Board to establish that the corporate debtor is eligible for fast track corporate insolvency resolution process.

Applicability  
of Chapter II to  
this Chapter.

58. The process for conducting a corporate insolvency resolution process under Chapter II and the provisions relating to offences and penalties under Chapter VII shall apply to this Chapter as the context may require.

## CHAPTER V

## VOLUNTARY LIQUIDATION OF CORPORATE PERSONS

Voluntary  
liquidation of  
corporate  
persons.

59. (1) A corporate person who intends to liquidate itself voluntarily and has not committed any default may initiate voluntary liquidation proceedings under the provisions of this Chapter.

(2) The voluntary liquidation of a corporate person under sub-section (1) shall meet such conditions and procedural requirements as may be specified by the Board.



(3) Without prejudice to sub-section (2), voluntary liquidation proceedings of a corporate person registered as a company shall meet the following conditions, namely:—

(a) a declaration from majority of the directors of the company verified by an affidavit stating that—

(i) they have made a full inquiry into the affairs of the company and they have formed an opinion that either the company has no debt or that it will be able to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation; and

(ii) the company is not being liquidated to defraud any person;

(b) the declaration under sub-clause (a) shall be accompanied with the following documents, namely:—

(i) audited financial statements and record of business operations of the company for the previous two years or for the period since its incorporation, whichever is later;

(ii) a report of the valuation of the assets of the company, if any prepared by a registered valuer;

(c) within four weeks of a declaration under sub-clause (a), there shall be—

(i) a special resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily and appointing an insolvency professional to act as the liquidator; or

(ii) a resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily as a result of expiry of the period of its duration, if any, fixed by its articles or on the occurrence of any event in respect of which the articles provide that the company shall be dissolved, as the case may be and appointing an insolvency professional to act as the liquidator;

Provided that the company owes any debt to any person, creditors representing two-thirds in value of the debt of the company shall approve the resolution passed under sub-clause (c) within seven days of such resolution.

(4) The company shall notify the Registrar of Companies and the Board about the resolution under sub-section (3) to liquidate the company within seven days of such resolution or the subsequent approval by the creditors, as the case may be.

(5) Subject to approval of the creditors under sub-section (3), the voluntary liquidation proceedings in respect of a company shall be deemed to have commenced from the date of passing of the resolution under sub-clause (c) of sub-section (3).

(6) The provisions of sections 35 to 53 of Chapter III and Chapter VII shall apply to voluntary liquidation proceedings for corporate persons with such modifications as may be necessary.

(7) Where the affairs of the corporate person have been completely wound up, and its assets completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate person.

(8) The Adjudicating Authority shall on an application filed by the liquidator under sub-section (7), pass an order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.

(9) A copy of an order under sub-section (8) shall within fourteen days from the date of such order, be forwarded to the authority with which the corporate person is registered.



## CHAPTER VI

## ADJUDICATING AUTHORITY FOR CORPORATE PERSONS

Adjudicating  
Authority for  
corporate  
persons.

60. (1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.

(2) Without prejudice to sub-section (1) and notwithstanding anything to the contrary contained in this Code, where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution or bankruptcy of a personal guarantor of such corporate debtor shall be filed before such National Company Law Tribunal.

(3) An insolvency resolution process or bankruptcy proceeding of a personal guarantor of the corporate debtor pending in any court or tribunal shall stand transferred to the Adjudicating Authority dealing with insolvency resolution process or liquidation proceeding of such corporate debtor.

(4) The National Company Law Tribunal shall be vested with all the powers of the Debt Recovery Tribunal as contemplated under Part III of this Code for the purpose of sub-section (2).

(5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of—

(a) any application or proceeding by or against the corporate debtor or corporate person;

(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and

(c) any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this Code.

(6) Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application by or against a corporate debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded. 36 of 1963.

Appeals and  
Appellate  
Authority.

61. (1) Notwithstanding anything to the contrary contained under the Companies Act 2013, any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal. 18 of 2013.

(2) Every appeal under sub-section (1) shall be filed within thirty days before the National Company Law Appellate Tribunal:

Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.

(3) An appeal against an order approving a resolution plan under section 31 may be filed on the following grounds, namely:—

(i) the approved resolution plan is in contravention of the provisions of any law for the time being in force;

(ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;



(iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;

(iv) the insolvency resolution process costs have not been provided for repayment in priority to all other debts; or

(v) the resolution plan does not comply with any other criteria specified by the Board.

(4) An appeal against a liquidation order passed under section 33 may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order.

62. (1) Any person aggrieved by an order of the National Company Law Appellate Tribunal may file an appeal to the Supreme Court on a question of law arising out of such order under this Code within forty-five days from the date of receipt of such order.

Appeal to  
Supreme  
Court.

(2) The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within forty-five days, allow the appeal to be filed within a further period not exceeding fifteen days.

63. No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which National Company Law Tribunal or the National Company Law Appellate Tribunal has jurisdiction under this Code. Civil court not to have jurisdiction.

Civil court  
not to have  
jurisdiction.

64. (1) Where an application is not disposed of or an order is not passed within the period specified in this Code, the National Company Law Tribunal or the National Company Law Appellate Tribunal, as the case may be, shall record the reasons for not doing so within the period so specified; and the President of the National Company Law Tribunal or the Chairperson of the National Company Law Appellate Tribunal, as the case may be, may, after taking into account the reasons so recorded, extend the period specified in the Act but not exceeding ten days.

Expedition  
disposal of  
applications.

(2) No injunction shall be granted by any court, tribunal or authority in respect of any action taken, or to be taken, in pursuance of any power conferred on the National Company Law Tribunal or the National Company Law Appellate Tribunal under this Code.

65. (1) If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.

Fraudulent or  
malicious  
initiation of  
proceedings.

(2) If, any person initiates voluntary liquidation proceedings with the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.

66. (1) If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may on the application of the resolution professional pass an order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.

Fraudulent  
trading or  
wrongful  
trading.

(2) On an application made by a resolution professional during the corporate insolvency resolution process, the Adjudicating Authority may by an order direct that a director or



partner of the corporate debtor, as the case may be, shall be liable to make such contribution to the assets of the corporate debtor as it may deem fit, if—

(a) before the insolvency commencement date, such director or partner knew or ought to have known that there was no reasonable prospect of avoiding the commencement of a corporate insolvency resolution process in respect of such corporate debtor; and

(b) such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the corporate debtor.

*Explanation.*—For the purposes of this section a director or partner of the corporate debtor, as the case may be, shall be deemed to have exercised due diligence if such diligence was reasonably expected of a person carrying out the same functions as are carried out by such director or partner, as the case may be, in relation to the corporate debtor.

Proceedings  
under section  
66.

67. (1) Where the Adjudicating Authority has passed an order under sub-section (1) or sub-section (2) of section 66, as the case may be, it may give such further directions as it may deem appropriate for giving effect to the order, and in particular, the Adjudicating Authority may—

(a) provide for the liability of any person under the order to be a charge on any debt or obligation due from the corporate debtor to him, or on any mortgage or charge or any interest in a mortgage or charge on assets of the corporate debtor held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf; and

(b) from time to time, make such further directions as may be necessary for enforcing any charge imposed under this section.

*Explanation.*—For the purposes of this section, "assignee" includes a person to whom or in whose favour, by the directions of the person held liable under clause (a) the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration given in good faith and without notice of any of the grounds on which the directions have been made.

(2) Where the Adjudicating Authority has passed an order under sub-section (1) or sub-section (2) of section 66, as the case may be, in relation to a person who is a creditor of the corporate debtor, it may, by an order, direct that the whole or any part of any debt owed by the corporate debtor to that person and any interest thereon shall rank in the order of priority of payment under section 53 after all other debts owed by the corporate debtor.

## CHAPTER VII

### OFFENCES AND PENALTIES

Punishment  
for  
concealment  
of property.

68. Where any officer of the corporate debtor has,—

(i) within the twelve months immediately preceding the insolvency commencement date,—

(a) wilfully concealed any property or part of such property of the corporate debtor or concealed any debt due to, or from, the corporate debtor, of the value of ten thousand rupees or more; or

(b) fraudulently removed any part of the property of the corporate debtor of the value of ten thousand rupees or more; or

(c) wilfully concealed, destroyed, mutilated or falsified any book or paper affecting or relating to the property of the corporate debtor or its affairs, or



(d) wilfully made any false entry in any book or paper affecting or relating to the property of the corporate debtor or its affairs; or

(e) fraudulently parted with, altered or made any omission in any document affecting or relating to the property of the corporate debtor or its affairs; or

(f) wilfully created any security interest over, transferred or disposed of any property of the corporate debtor which has been obtained on credit and has not been paid for unless such creation, transfer or disposal was in the ordinary course of the business of the corporate debtor; or

(g) wilfully concealed the knowledge of the doing by others of any of the acts mentioned in clauses (c), (d) or clause (e); or

(ii) at any time after the insolvency commencement date, committed any of the acts mentioned in sub-clause (a) to (f) of clause (i) or has the knowledge of the doing by others of any of the things mentioned in sub-clauses (c) to (e) of clause (i); or

(iii) at any time after the insolvency commencement date, taken in pawn or pledge, or otherwise received the property knowing it to be so secured, transferred or disposed,

such officer shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years, or with fine, which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both:

Provided that nothing in this section shall render a person liable to any punishment under this section if he proves that he had no intent to defraud or to conceal the state of affairs of the corporate debtor.

69. On or after the insolvency commencement date, if an officer of the corporate debtor or the corporate debtor—

(a) has made or caused to be made any gift or transfer of, or charge on, or has caused or connived in the execution of a decree or order against, the property of the corporate debtor;

(b) has concealed or removed any part of the property of the corporate debtor within two months before the date of any unsatisfied judgment, decree or order for payment of money obtained against the corporate debtor,

such officer of the corporate debtor or the corporate debtor, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one year, but which may extend to five years, or with fine, which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both:

Provided that a person shall not be punishable under this section if the acts mentioned in clause (a) were committed more than five years before the insolvency commencement date; or if he proves that, at the time of commission of those acts, he had no intent to defraud the creditors of the corporate debtor.

70. (1) On or after the insolvency commencement date, where an officer of the corporate debtor—

(a) does not disclose to the resolution professional all the details of property of the corporate debtor, and details of transactions thereof, or any such other information as the resolution professional may require; or

(b) does not deliver to the resolution professional all or part of the property of the corporate debtor in his control or custody and which he is required to deliver; or

Punishment for transactions defrauding creditors.

Punishment for misconduct in course of corporate insolvency resolution process.



(c) does not deliver to the resolution professional all books and papers in his control or custody belonging to the corporate debtor and which he is required to deliver; or

(d) fails to inform the resolution professional the information in his knowledge that a debt has been falsely proved by any person during the corporate insolvency resolution process; or

(e) prevents the production of any book or paper affecting or relating to the property or affairs of the corporate debtor; or

(f) accounts for any part of the property of the corporate debtor by fictitious losses or expenses; or if he has so attempted at any meeting of the creditors of the corporate debtor within the twelve months immediately preceding the insolvency commencement date,

he shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years, or with fine, which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both:

Provided that nothing in this section shall render a person liable to any punishment under this section if he proves that he had no intent to do so in relation to the state of affairs of the corporate debtor.

(2) If an insolvency professional deliberately contravenes the provisions of this Part he shall be punishable with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees, but may extend to five lakhs rupees, or with both.

Punishment  
for  
falsification  
of books of  
corporate  
debtor.

71. On and after the insolvency commencement date, where any person destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is in the knowledge of making of any false or fraudulent entry in any register, books of account or document belonging to the corporate debtor with intent to defraud or deceive any person, he shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years, or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both.

Punishment  
for wilful and  
material  
omissions  
from  
statements  
relating to  
affairs of  
corporate  
debtor.

72. Where an officer of the corporate debtor makes any material and wilful omission in any statement relating to the affairs of the corporate debtor, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years, or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both.

Punishment  
for false  
representations  
to creditors.

73. Where any officer of the corporate debtor—

(a) on or after the insolvency commencement date, makes a false representation or commits any fraud for the purpose of obtaining the consent of the creditors of the corporate debtor or any of them to an agreement with reference to the affairs of the corporate debtor, during the corporate insolvency resolution process, or the liquidation process;

(b) prior to the insolvency commencement date, has made any false representation, or committed any fraud, for that purpose,

he shall be punishable with imprisonment for a term which shall not be less than three years, but may extend to five years or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both.



74. (1) Where the corporate debtor or any of its officer violates the provisions of section 14, any such officer who knowingly or wilfully committed or authorised or permitted such contravention shall be punishable with imprisonment for a term which shall not be less than three years, but may extend to five years or with fine which shall not be less than one lakh rupees, but may extend to three lakh rupees, or with both.

Punishment for contravention of moratorium or the resolution plan.

(2) Where any creditor violates the provisions of section 14, any person who knowingly and wilfully authorised or permitted such contravention by a creditor shall be punishable with imprisonment for a term which shall not be less than one year, but may extend to five years, or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both.

(3) Where the corporate debtor, any of its officers or creditors or any person on whom the approved resolution plan is binding under section 31, knowingly and wilfully contravenes any of the terms of such resolution plan or abets such contravention, such corporate debtor, officer, creditor or person shall be punishable with imprisonment of not less than one year, but may extend to five years, or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both.

75. Where any person furnishes information in the application made under section 7, which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material, such person shall be punishable with fine which shall not be less than one lakh rupees, but may extend to one crore rupees.

Punishment for false information furnished in application.

76. Where—

(a) an operational creditor has wilfully or knowingly concealed in an application under section 9 the fact that the corporate debtor had notified him of a dispute in respect of the unpaid operational debt or the full and final repayment of the unpaid operational debt; or

Punishment for non-disclosure of dispute or repayment of debt by operational creditor.

(b) any person who knowingly and wilfully authorised or permitted such concealment under clause (a),

such operational creditor or person, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one year but may extend to five years or with fine which shall not be less than one lakh rupees but may extend to one crore rupees, or with both.

77. Where—

(a) a corporate debtor provides information in the application under section 10 which is false in material particulars, knowing it to be false and omits any material fact, knowing it to be material; or

Punishment for providing false information in application made by corporate debtor.

(b) any person who knowingly and wilfully authorised or permitted the furnishing of such information under sub-clause (a),

such corporate debtor or person, as the case may be, shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years or with fine which shall not be less than one lakh rupees, but which may extend to one crore rupees, or with both.

*Explanation.*—For the purposes of this section and sections 75 and 76, an application shall be deemed to be false in material particulars in case the facts mentioned or omitted in the application, if true, or not omitted from the application as the case may be, would have been sufficient to determine the existence of a default under this Code.



## PART III

## INSOLVENCY RESOLUTION AND BANKRUPTCY FOR INDIVIDUALS AND PARTNERSHIP FIRMS

## CHAPTER I

## PRELIMINARY

Application.

78. This Part shall apply to matters relating to fresh start, insolvency and bankruptcy of individuals and partnership firms where the amount of the default is not less than one thousand rupees:

Provided that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one lakh rupees.

Definitions.

79. In this Part, unless the context otherwise requires,—

(1) "Adjudicating Authority" means the Debt Recovery Tribunal constituted under sub-section (1) of section 3 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993;

51 of 1993.

(2) "associate" of the debtor means—

(a) a person who belongs to the immediate family of the debtor;

(b) a person who is a relative of the debtor or a relative of the spouse of the debtor;

(c) a person who is in partnership with the debtor;

(d) a person who is a spouse or a relative of any person with whom the debtor is in partnership;

(e) a person who is employer of the debtor or employee of the debtor;

(f) a person who is a trustee of a trust in which the beneficiaries of the trust include a debtor, or the terms of the trust confer a power on the trustee which may be exercised for the benefit of the debtor; and

(g) a company, where the debtor or the debtor along with his associates, own more than fifty per cent. of the share capital of the company or control the appointment of the board of directors of the company.

*Explanation.*—For the purposes of this sub-section, "relative", with reference to any person, means anyone who is related to another, if—

(i) they are members of a Hindu Undivided Family;

(ii) one person is related to the other in such manner as may be prescribed;

(3) "bankrupt" means—

(a) a debtor who has been adjudged as bankrupt by a bankruptcy order under section 126;

(b) each of the partners of a firm, where a bankruptcy order under section 126 has been made against a firm; or

(c) any person adjudged as an undischarged insolvent;

(4) "bankruptcy" means the state of being bankrupt;

(5) "bankruptcy debt", in relation to a bankrupt, means—

(a) any debt owed by him as on the bankruptcy commencement date;



(b) any debt for which he may become liable after bankruptcy commencement date but before his discharge by reason of any transaction entered into before the bankruptcy commencement date; and

(c) any interest which is a part of the debt under section 171;

(6) "bankruptcy commencement date" means the date on which a bankruptcy order is passed by the Adjudicating Authority under section 126;

(7) "bankruptcy order" means an order passed by an Adjudicating Authority under section 126;

(8) "bankruptcy process" means a process against a debtor under Chapters IV and V of this Part;

(9) "bankruptcy trustee" means the insolvency professional appointed as a trustee for the estate of the bankrupt under section 125;

(10) "Chapter" means a chapter under this Part;

(11) "committee of creditors" means a committee constituted under section 134;

(12) "debtor" includes a judgment-debtor;

(13) "discharge order" means an order passed by the Adjudicating Authority discharging the debtor under sections 92, 119 and section 138, as the case may be;

(14) "excluded assets" for the purposes of this part includes—

(a) unencumbered tools, books, vehicles and other equipment as are necessary to the debtor or bankrupt for his personal use or for the purpose of his employment, business or vocation,

(b) unencumbered furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his immediate family;

(c) any unencumbered personal ornaments of such value, as may be prescribed, of the debtor or his immediate family which cannot be parted with, in accordance with religious usage;

(d) any unencumbered life insurance policy or pension plan taken in the name of debtor or his immediate family; and

(e) an unencumbered single dwelling unit owned by the debtor of such value as may be prescribed;

(15) "excluded debt" means—

(a) liability to pay fine imposed by a court or tribunal;

(b) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;

(c) liability to pay maintenance to any person under any law for the time being in force;

(d) liability in relation to a student loan; and

(e) any other debt as may be prescribed;

(16) "firm" means a body of individuals carrying on business in partnership whether or not registered under section 59 of the Indian Partnership Act, 1932;

(17) "immediate family" of the debtor means his spouse, dependent children and dependent parents;



(18) "partnership debt" means a debt for which all the partners in a firm are jointly liable;

(19) "qualifying debt" means amount due, which includes interest or any other sum due in respect of the amounts owed under any contract, by the debtor for a liquidated sum either immediately or at certain future time and does not include—

(a) an excluded debt;

(b) a debt to the extent it is secured; and

(c) any debt which has been incurred three months prior to the date of the application for fresh start process;

(20) "repayment plan" means a plan prepared by the debtor in consultation with the resolution professional under section 105 containing a proposal to the committee of creditors for restructuring of his debts or affairs;

(21) "resolution professional" means an insolvency professional appointed under this part as a resolution professional for conducting the fresh start process or insolvency resolution process;

(22) "undischarged bankrupt" means a bankrupt who has not received a discharge order under section 138.

## CHAPTER II

### FRESH START PROCESS

Eligibility for making an application.

80. (1) A debtor, who is unable to pay his debt and fulfils the conditions specified in sub-section (2), shall be entitled to make an application for a fresh start for discharge of his qualifying debt under this Chapter.

(2) A debtor may apply, either personally or through a resolution professional, for a fresh start under this Chapter in respect of his qualifying debts to the Adjudicating Authority if—

(a) the gross annual income of the debtor does not exceed sixty thousand rupees;

(b) the aggregate value of the assets of the debtor does not exceed twenty thousand rupees;

(c) the aggregate value of the qualifying debts does not exceed thirty-five thousand rupees;

(d) he is not an undischarged bankrupt;

(e) he does not own a dwelling unit, irrespective of whether it is encumbered or not;

(f) a fresh start process, insolvency resolution process or bankruptcy process is not subsisting against him; and

(g) no previous fresh start order under this Chapter has been made in relation to him in the preceding twelve months of the date of the application for fresh start.

Application for fresh start order.

81. (1) When an application is filed under section 80 by a debtor, an interim-moratorium shall commence on the date of filing of said application in relation to all the debts and shall cease to have effect on the date of admission or rejection of such application, as the case may be.

(2) During the interim-moratorium period,—

(i) any legal action or legal proceeding pending in respect of any of his debts shall be deemed to have been stayed; and



(ii) no creditor shall initiate any legal action or proceedings in respect of such debt.

(3) The application under section 80 shall be in such form and manner and accompanied by such fee, as may be prescribed.

(4) The application under sub-section (3) shall contain the following information supported by an affidavit, namely:—

(a) a list of all debts owed by the debtor as on the date of the said application along with details relating to the amount of each debt, interest payable thereon and the names of the creditors to whom each debt is owed;

(b) the interest payable on the debts and the rate thereof stipulated in the contract;

(c) a list of security held in respect of any of the debts;

(d) the financial information of the debtor and his immediate family up to two years prior to the date of the application;

(e) the particulars of the debtor's personal details, as may be prescribed;

(f) the reasons for making the application;

(g) the particulars of any legal proceedings which, to the debtor's knowledge has been commenced against him;

(h) the confirmation that no previous fresh start order under this Chapter has been made in respect of the qualifying debts of the debtor in the preceding twelve months of the date of the application.

82. (1) Where an application under section 80 is filed by the debtor through a resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of receipt of the application and shall seek confirmation from the Board that there are no disciplinary proceedings against the resolution professional who has submitted such application.

Appointment  
of resolution  
professional.

(2) The Board shall communicate to the Adjudicating Authority in writing either—

(a) confirmation of the appointment of the resolution professional who filed an application under sub-section (1); or

(b) rejection of the appointment of the resolution professional who filed an application under sub-section (1) and nominate a resolution professional suitable for the fresh start process.

(3) Where an application under section 80 is filed by the debtor himself and not through the resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of the receipt of an application to nominate a resolution professional for the fresh start process.

(4) The Board shall nominate a resolution professional within ten days of receiving the direction issued by the Adjudicating Authority under sub-section (3).

(5) The Adjudicating Authority shall by order appoint the resolution professional recommended or nominated by the Board under sub-section (2) or sub-section (4), as the case may be.

(6) A resolution professional appointed by the Adjudicating Authority under sub-section (5) shall be provided a copy of the application for fresh start.

83. (1) The resolution professional shall examine the application made under section 80 within ten days of his appointment, and submit a report to the Adjudicating Authority, either recommending acceptance or rejection of the application.

Examination  
of application  
by resolution  
professional.



(2) The report referred to in sub-section (1) shall contain the details of the amounts mentioned in the application which in the opinion of the resolution professional are—

(a) qualifying debts; and

(b) liabilities eligible for discharge under sub-section (3) of section 92.

(3) The resolution professional may call for such further information or explanation in connection with the application as may be required from the debtor or any other person who, in the opinion of the resolution professional, may provide such information.

(4) The debtor or any other person, as the case may be, shall furnish such information or explanation within seven days of receipt of the request under sub-section (3).

(5) The resolution professional shall presume that the debtor is unable to pay his debts at the date of the application if—

(a) in his opinion the information supplied in the application indicates that the debtor is unable to pay his debts and he has no reason to believe that the information supplied is incorrect or incomplete; and

(b) he has reason to believe that there is no change in the financial circumstances of the debtor since the date of the application enabling the debtor to pay his debts.

(6) The resolution professional shall reject the application, if in his opinion—

(a) the debtor does not satisfy the conditions specified under section 80; or

(b) the debts disclosed in the application by the debtor are not qualifying debts; or

(c) the debtor has deliberately made a false representation or omission in the application or with respect to the documents or information submitted.

(7) The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report to the Adjudicating Authority under sub-section (1) and shall give a copy of the report to the debtor.

Admission or rejection of application by Adjudicating Authority.

84. (1) The Adjudicating Authority may within fourteen days from the date of submission of the report by the resolution professional, pass an order either admitting or rejecting the application made under sub-section (1) of section 81.

(2) The order passed under sub-section (1) accepting the application shall state the amount which has been accepted as qualifying debts by the resolution professional and other amounts eligible for discharge under section 92 for the purposes of the fresh start order.

(3) A copy of the order passed by the Adjudicating Authority under sub-section (1) along with a copy of the application shall be provided to the creditors mentioned in the application within seven days of the passing of the order.

Effect of admission of application.

85. (1) On the date of admission of the application, the moratorium period shall commence in respect of all the debts.

(2) During the moratorium period—

(a) any pending legal action or legal proceeding in respect of any debt shall be deemed to have been stayed; and

(b) subject to the provisions of section 86, the creditors shall not initiate any legal action or proceedings in respect of any debt.

(3) During the moratorium period, the debtor shall—

(a) not act as a director of any company, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company;



(b) not dispose of or alienate any of his assets;

(c) inform his business partners that he is undergoing a fresh start process;

(d) be required to inform prior to entering into any financial or commercial transaction of such value as may be notified by the Central Government, either individually or jointly, that he is undergoing a fresh start process;

(e) disclose the name under which he enters into business transactions, if it is different from the name in the application admitted under section 84;

(f) not travel outside India except with the permission of the Adjudicating Authority.

(4) The moratorium ceases to have effect at the end of the period of one hundred and eighty days beginning with the date of admission unless the order admitting the application is revoked under sub-section (2) of section 91.

86. (1) Any creditor mentioned in the order of the Adjudicating Authority under section 84 to whom a qualifying debt is owed may, within a period of ten days from the date of receipt of the order under section 84, object only on the following grounds, namely:—

Objections by creditor and their examination by resolution professional.

(a) inclusion of a debt as a qualifying debt; or

(b) incorrectness of the details of the qualifying debt specified in the order under section 84.

(2) A creditor may file an objection under sub-section (1) by way of an application to the resolution professional.

(3) The application under sub-section (2) shall be supported by such information and documents as may be prescribed.

(4) The resolution professional shall consider every objection made under this section.

(5) The resolution professional shall examine the objections under sub-section (2) and either accept or reject the objections, within ten days of the date of the application.

(6) The resolution professional may examine any matter that appears to him to be relevant to the making of a final list of qualifying debts for the purposes of section 92.

(7) On the basis of the examination under sub-section (5) or sub-section (6), the resolution professional shall—

(a) prepare an amended list of qualifying debts for the purpose of the discharge order;

(b) make an application to the Adjudicating Authority for directions under section 90; or

(c) take such other steps as he considers necessary in relation to the debtor.

87. (1) The debtor or the creditor who is aggrieved by the action taken by the resolution professional under section 86 may, within ten days of such decision, make an application to the Adjudicating Authority challenging such action on any of the following grounds, namely:—

Application against decision of resolution professional.

(a) that the resolution professional has not given an opportunity to the debtor or the creditor to make a representation; or

(b) that the resolution professional colluded with the other party in arriving at the decision; or

(c) that the resolution professional has not complied with the requirements of section 86.



(2) The Adjudicating Authority shall decide the application referred to in sub-section (1) within fourteen days of such application, and make an order as it deems fit.

(3) Where the application under sub-section (1) has been allowed by the Adjudicating Authority, it shall forward its order to the Board and the Board may take such action as may be required under Chapter VI of Part IV against the resolution professional.

General duties  
of debtor.

88. The debtor shall—

(a) make available to the resolution professional all information relating to his affairs, attend meetings and comply with the requests of the resolution professional in relation to the fresh start process.

(b) inform the resolution professional as soon as reasonably possible of—

(i) any material error or omission in relation to the information or document supplied to the resolution professional; or

(ii) any change in financial circumstances after the date of application, where such change has an impact on the fresh start process.

Replacement  
of resolution  
professional.

89. (1) Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 82 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of such resolution professional.

(2) The Adjudicating Authority shall within seven days of the receipt of the application under sub-section (1) make a reference to the Board for replacement of the resolution professional.

(3) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (2), recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(4) The Adjudicating Authority shall appoint another resolution professional for the purposes of the fresh start process on the basis of the recommendation by the Board.

(5) The Adjudicating Authority may give directions to the resolution professional replaced under sub-section (4)—

(a) to share all information with the new resolution professional in respect of the fresh start process; and

(b) to co-operate with the new resolution professional as may be required.

Directions for  
compliances  
of  
restrictions,  
etc.

90. (1) The resolution professional may apply to the Adjudicating Authority for any of the following directions, namely:—

(a) compliance of any restrictions referred to in sub-section (3) of section 85, in case of non-compliance by the debtor; or

(b) compliance of the duties of the debtor referred to in section 88, in case of non-compliance by the debtor.

(2) The resolution professional may apply to the Adjudicating Authority for directions in relation to any other matter under this Chapter for which no specific provisions have been made.

Revocation of  
order  
admitting  
application.

91. (1) The resolution professional may submit an application to the Adjudicating Authority seeking revocation of its order made under section 84 on the following grounds, namely:—

(a) if due to any change in the financial circumstances of the debtor, the debtor is ineligible for a fresh start process; or



(b) non-compliance by the debtor of the restrictions imposed under sub-section (3) of section 85; or

(c) if the debtor has acted in a *mala fide* manner and has wilfully failed to comply with the provisions of this Chapter.

(2) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (1), may by order admit or reject the application.

(3) On passing of the order admitting the application referred to in sub-section (1), the moratorium and the fresh start process shall cease to have effect.

(4) A copy of the order passed by the Adjudicating Authority under this section shall be provided to the Board for the purpose of recording an entry in the register referred to in section 196.

92. (1) The resolution professional shall prepare a final list of qualifying debts and submit such list to the Adjudicating Authority at least seven days before the moratorium period comes to an end.

Discharge order.

(2) The Adjudicating Authority shall pass a discharge order at the end of the moratorium period for discharge of the debtor from the qualifying debts mentioned in the list under sub-section (1).

(3) Without prejudice to the provisions of sub-section (2), the Adjudicating Authority shall discharge the debtor from the following liabilities, namely:—

(a) penalties in respect of the qualifying debts from the date of application till the date of the discharge order;

(b) interest including penal interest in respect of the qualifying debts from the date of application till the date of the discharge order; and

(c) any other sums owed under any contract in respect of the qualifying debts from the date of application till the date of the discharge order.

(4) The discharge order shall not discharge the debtor from any debt not included in sub-section (2) and from any liability not included under sub-section (3).

(5) The discharge order shall be forwarded to the Board for the purpose of recording an entry in the register referred to in section 196.

(6) A discharge order under sub-section (2) shall not discharge any other person from any liability in respect of the qualifying debts.

93. The resolution professional shall perform his functions and duties in compliance with the code of conduct provided under section 208.

Standard of conduct.

### CHAPTER III

#### INSOLVENCY RESOLUTION PROCESS

94. (1) A debtor who commits a default may apply, either personally or through a resolution professional, to the Adjudicating Authority for initiating the insolvency resolution process, by submitting an application.

Application by debtor to initiate insolvency resolution process.

(2) Where the debtor is a partner of a firm, such debtor shall not apply under this Chapter to the Adjudicating Authority in respect of the firm unless all or a majority of the partners of the firm file the application jointly.

(3) An application under sub-section (1) shall be submitted only in respect of debts which are not excluded debts.



(4) A debtor shall not be entitled to make an application under sub-section (1) if he is—

- (a) an undischarged bankrupt;
- (b) undergoing a fresh start process;
- (c) undergoing an insolvency resolution process; or
- (d) undergoing a bankruptcy process.

(5) A debtor shall not be eligible to apply under sub-section (1) if an application under this Chapter has been admitted in respect of the debtor during the period of twelve months preceding the date of submission of the application under this section.

(6) The application referred to in sub-section (1) shall be in such form and manner and accompanied with such fee as may be prescribed.

Application  
by creditor to  
initiate  
insolvency  
resolution  
process.

95. (1) A creditor may apply either by himself, or jointly with other creditors, or through a resolution professional to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application.

(2) A creditor may apply under sub-section (1) in relation to any partnership debt owed to him for initiating an insolvency resolution process against—

- (a) any one or more partners of the firm; or
- (b) the firm.

(3) Where an application has been made against one partner in a firm, any other application against another partner in the same firm shall be presented in or transferred to the Adjudicating Authority in which the first mentioned application is pending for adjudication and such Adjudicating Authority may give such directions for consolidating the proceedings under the applications as it thinks just.

(4) An application under sub-section (1) shall be accompanied with details and documents relating to—

- (a) the debts owed by the debtor to the creditor or creditors submitting the application for insolvency resolution process as on the date of application;
- (b) the failure by the debtor to pay the debt within a period of fourteen days of the service of the notice of demand; and
- (c) relevant evidence of such default or non-repayment of debt.

(5) The creditor shall also provide a copy of the application made under sub-section (1) to the debtor.

(6) The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.

(7) The details and documents required to be submitted under sub-section (4) shall be such as may be specified.

Interim-  
moratorium.

96. (1) When an application is filed under section 94 or section 95—

(a) an interim-moratorium shall commence on the date of the application in relation to all the debts and shall cease to have effect on the date of admission of such application; and

(b) during the interim-moratorium period—

(i) any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and



(ii) the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.

(2) Where the application has been made in relation to a firm, the interim-moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the application.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

97. (1) If the application under section 94 or 95 is filed through a resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of the application to confirm that there are no disciplinary proceedings pending against resolution professional.

Appointment  
of resolution  
professional.

(2) The Board shall within seven days of receipt of directions under sub-section (1) communicate to the Adjudicating Authority in writing either—

(a) confirming the appointment of the resolution professional; or

(b) rejecting the appointment of the resolution professional and nominating another resolution professional for the insolvency resolution process.

(3) Where an application under section 94 or 95 is filed by the debtor or the creditor himself, as the case may be, and not through the resolution professional, the Adjudicating Authority shall direct the Board, within seven days of the filing of such application, to nominate a resolution professional for the insolvency resolution process.

(4) The Board shall nominate a resolution professional within ten days of receiving the direction issued by the Adjudicating Authority under sub-section (3).

(5) The Adjudicating Authority shall by order appoint the resolution professional recommended under sub-section (2) or as nominated by the Board under sub-section (4).

(6) A resolution professional appointed by the Adjudicating Authority under sub-section (5) shall be provided a copy of the application for insolvency resolution process.

98. (1) Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 97 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of the such resolution professional.

Replacement  
of resolution  
professional.

(2) The Adjudicating Authority shall within seven days of the receipt of the application under sub-section (1) make a reference to the Board for replacement of the resolution professional.

(3) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (2), recommend the name of the resolution professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(4) Without prejudice to the provisions contained in sub-section (1), the creditors may apply to the Adjudicating Authority for replacement of the resolution professional where it has been decided in the meeting of the creditors, to replace the resolution professional with a new resolution professional for implementation of the repayment plan.

(5) Where the Adjudicating Authority admits an application made under sub-section (1) or sub-section (4), it shall direct the Board to confirm that there are no disciplinary proceedings pending against the proposed resolution professional.

(6) The Board shall send a communication within ten days of receipt of the direction under sub-section (5) either—

(a) confirming appointment of the nominated resolution professional; or



(b) rejecting appointment of the nominated resolution professional and recommend a new resolution professional.

(7) On the basis of the communication of the Board under sub-section (3) or sub-section (6), the Adjudicating Authority shall pass an order appointing a new resolution professional.

(8) The Adjudicating Authority may give directions to the resolution professional replaced under sub-section (7) —

(a) to share all information with the new resolution professional in respect of the insolvency resolution process; and

(b) to co-operate with the new resolution professional in such matters as may be required.

Submission of  
report by  
resolution  
professional.

99. (1) The resolution professional shall examine the application referred to in section 94 or section 95, as the case may be, within ten days of his appointment, and submit a report to the Adjudicating Authority recommending for approval or rejection of the application.

(2) Where the application has been filed under section 95, the resolution professional may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing—

(a) evidence of electronic transfer of the unpaid amount from the bank account of the debtor;

(b) evidence of encashment of a cheque issued by the debtor; or

(c) a signed acknowledgment by the creditor accepting receipt of dues.

(3) Where the debt for which an application has been filed by a creditor is registered with the information utility, the debtor shall not be entitled to dispute the validity of such debt.

(4) For the purposes of examining an application, the resolution professional may seek such further information or explanation in connection with the application as may be required from the debtor or the creditor or any other person who, in the opinion of the resolution professional, may provide such information.

(5) The person from whom information or explanation is sought under sub-section (4) shall furnish such information or explanation within seven days of receipt of the request.

(6) The resolution professional shall examine the application and ascertain that—

(a) the application satisfies the requirements set out in section 94 or 95;

(b) the applicant has provided information and given explanation sought by the resolution professional under sub-section (4).

(7) After examination of the application under sub-section (6), he may recommend acceptance or rejection of the application in his report.

(8) Where the resolution professional finds that the debtor is eligible for a fresh start under Chapter II, the resolution professional shall submit a report recommending that the application by the debtor under section 94 be treated as an application under section 81 by the Adjudicating Authority.

(9) The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report under sub-section (7).

(10) The resolution professional shall give a copy of the report under sub-section (7) to the debtor or the creditor, as the case may be.



100. (1) The Adjudicating Authority shall, within fourteen days from the date of submission of the report under section 99 pass an order either admitting or rejecting the application referred to in section 94 or 95, as the case may be.

Admission or rejection of application.

(2) Where the Adjudicating Authority admits an application under sub-section (1), it may, on the request of the resolution professional, issue instructions for the purpose of conducting negotiations between the debtor and creditors and for arriving at a repayment plan.

(3) The Adjudicating Authority shall provide a copy of the order passed under sub-section (1) along with the report of the resolution professional and the application referred to in section 94 or 95, as the case may be, to the creditors within seven days from the date of the said order.

(4) If the application referred to in section 94 or 95, as the case may be, is rejected by the Adjudicating Authority on the basis of report submitted by the resolution professional that the application was made with the intention to defraud his creditors or the resolution professional, the order under sub-section (1) shall record that the creditor is entitled to file for a bankruptcy order under Chapter IV.

101. (1) When the application is admitted under section 100, a moratorium shall commence in relation to all the debts and shall cease to have effect at the end of the period of one hundred and eighty days beginning with the date of admission of the application or on the date the Adjudicating Authority passes an order on the repayment plan under section 114, whichever is earlier.

Moratorium.

(2) During the moratorium period—

(a) any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed;

(b) the creditors shall not initiate any legal action or legal proceedings in respect of any debt; and

(c) the debtor shall not transfer, alienate, encumber or dispose of any of his assets or his legal rights or beneficial interest therein;

(3) Where an order admitting the application under section 96 has been made in relation to a firm, the moratorium under sub-section (1) shall operate against all the partners of the firm.

(4) The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

102. (1) The Adjudicating Authority shall issue a public notice within seven days of passing the order under section 100 inviting claims from all creditors within twenty-one days of such issue.

Public notice and claims from creditors.

(2) The notice under sub-section (1) shall include—

(a) details of the order admitting the application;

(b) particulars of the resolution professional with whom the claims are to be registered; and

(c) the last date for submission of claims.

(3) The notice shall be—

(a) published in at least one English and one vernacular newspaper which is in circulation in the state where the debtor resides;



(b) affixed in the premises of the Adjudicating Authority; and

(c) placed on the website of the Adjudicating Authority.

Resistering of  
claims by  
creditors.

**103. (1)** The creditors shall register claims with the resolution professional by sending details of the claims by way of electronic communications or through courier, speed post or registered letter.

(2) In addition to the claims referred to in sub-section (1), the creditor shall provide to the resolution professional, personal information and such particulars as may be prescribed.

Preparation  
of list of  
creditors.

**104. (1)** The resolution professional shall prepare a list of creditors on the basis of—

(a) the information disclosed in the application filed by the debtor under section 94 or 95, as the case may be;

(b) claims received by the resolution professional under section 102.

(2) The resolution professional shall prepare the list mentioned in sub-section (1) within thirty days from the date of the notice.

Repayment  
plan.

**105. (1)** The debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs.

(2) The repayment plan may authorise or require the resolution professional to—

(a) carry on the debtor's business or trade on his behalf or in his name; or

(b) realise the assets of the debtor; or

(c) administer or dispose of any funds of the debtor.

(3) The repayment plan shall include the following, namely:—

(a) justification for preparation of such repayment plan and reasons on the basis of which the creditors may agree upon the plan;

(b) provision for payment of fee to the resolution professional;

(c) such other matters as may be specified.

Report of  
resolution  
professional  
on repayment  
plan.

**106. (1)** The resolution professional shall submit the repayment plan under section 105 along with his report on such plan to the Adjudicating Authority within a period of twenty-one days from the last date of submission of claims under section 102.

(2) The report referred in sub-section (1) shall include that—

(a) the repayment plan is in compliance with the provisions of any law for the time being in force;

(b) the repayment plan has a reasonable prospect of being approved and implemented; and

(c) there is a necessity of summoning a meeting of the creditors, if required, to consider the repayment plan.

Provided that where the resolution professional recommends that a meeting of the creditors is not required to be summoned, reasons for the same shall be provided.

(3) The report referred to in sub-section (2) shall also specify the date on which, and the time and place at which, the meeting should be held if he is of the opinion that a meeting of the creditors should be summoned.



(4) For the purposes of sub-section (3)—

(a) the date on which the meeting is to be held shall be not less than fourteen days and not more than twenty eight days from the date of submission of report under sub-section (1);

(b) the resolution professional shall consider the convenience of creditors in fixing the date and venue of the meeting of the creditors.

107. (1) The resolution professional shall issue a notice calling the meeting of the creditors at least fourteen days before the date fixed for such meeting.

Summoning of meeting of creditors.

(2) The resolution professional shall send the notice of the meeting to the list of creditors prepared under section 104.

(3) The notice sent under sub-section (1) shall state the address of the Adjudicating Authority to which the repayment plan and report of the resolution professional on the repayment plan has been submitted and shall be accompanied by—

(a) a copy of the repayment plan;

(b) a copy of the statement of affairs of the debtor;

(c) a copy of the said report of the resolution professional; and

(d) forms for proxy voting.

(4) The proxy voting, including electronic proxy voting shall take place in such manner and form as may be specified.

108. (1) The meeting of the creditors shall be conducted in accordance with the provisions of this section and sections 109, 110 and 111.

Conduct of meeting of creditors.

(2) In the meeting of the creditors, the creditors may decide to approve, modify or reject the repayment plan.

(3) The resolution professional shall ensure that if modifications are suggested by the creditors, consent of the debtor shall be obtained for each modification.

(4) The resolution professional may for a sufficient cause adjourn the meeting of the creditors for a period of not more than seven days at a time.

109. (1) A creditor shall be entitled to vote at every meeting of the creditors in respect of the repayment plan in accordance with the voting share assigned to him.

Voting rights in meeting of creditors.

(2) The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board.

(3) A creditor shall not be entitled to vote in respect of a debt for an unliquidated amount.

(4) A creditor shall not be entitled to vote in a meeting of the creditors if he—

(a) is not a creditor mentioned in the list of creditors under section 104; or

(b) is an associate of the debtor.

110. (1) Secured creditors shall be entitled to participate and vote in the meetings of the creditors.

Rights of secured creditors in relation to repayment plan.

(2) A secured creditor participating in the meetings of the creditors and voting in relation to the repayment plan shall forfeit his right to enforce the security during the period of the repayment plan in accordance with the terms of the repayment plan.



(3) Where a secured creditor does not forfeit his right to enforce security, he shall submit an affidavit to the resolution professional at the meeting of the creditors stating—

(a) that the right to vote exercised by the secured creditor is only in respect of the unsecured part of the debt; and

(b) the estimated value of the unsecured part of the debt.

(4) In case a secured creditor participates in the voting on the repayment plan by submitting an affidavit under sub-section (3), the secured and unsecured parts of the debt shall be treated as separate debts.

(5) The concurrence of the secured creditor shall be obtained if he does not participate in the voting on repayment plan but provision of the repayment plan affects his right to enforce security.

*Explanation.*—For the purposes of this section, "period of the repayment plan" means the period from the date of the order passed under section 114 till the date on which the notice is given by the resolution professional under section 117 or report submitted by the resolution professional under section 118, as the case may be.

Approval of  
repayment  
plan by  
creditors.

111. The repayment plan or any modification to the repayment plan shall be approved by a majority of more than three-fourth in value of the creditors present in person or by proxy and voting on the resolution in a meeting of the creditors.

Report of  
meeting of  
creditors on  
repayment  
plan.

112. (1) The resolution professional shall prepare a report of the meeting of the creditors on repayment plan.

(2) The report under sub-section (1) shall contain—

(a) whether the repayment plan was approved or rejected and if approved, the list the modifications, if any;

(b) the resolutions which were proposed at the meeting and the decision on such resolutions;

(c) list of the creditors who were present or represented at the meeting, and the voting records of each creditor for all meetings of the creditors; and

(d) such other information as the resolution professional thinks appropriate to make known to the Adjudicating Authority.

Notice of  
decisions  
taken at  
meeting of  
creditors.

113. The resolution professional shall provide a copy of the report of the meeting of creditors prepared under section 99 to—

(a) the debtor;

(b) the creditors, including those who were not present at the meeting; and

(c) the Adjudicating Authority.

Order of  
Adjudicating  
Authority on  
repayment  
plan.

114. (1) The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112:

Provided that where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under section 106.

(2) The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.



(3) Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to re-convene a meeting of the creditors for reconsidering the repayment plan.

115. (1) Where the Adjudicating Authority has approved the repayment plan under section 114, such repayment plan shall—

(a) take effect as if proposed by the debtor in the meeting; and

(b) be binding on creditors mentioned in the repayment plan and the debtor.

Effect of order of Adjudicating Authority on repayment plan.

(2) Where the Adjudicating Authority rejects the repayment plan under section 114, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV.

(3) A copy of the order passed by the Adjudicating Authority under sub-section (2) shall be provided to the Board, for the purpose of recording an entry in the register referred to in section 196.

116. (1) The resolution professional appointed under section 97 or under section 98 shall supervise the implementation of the repayment plan.

Implementation and supervision of repayment plan.

(2) The resolution professional may apply to the Adjudicating Authority for directions, if necessary, in relation to any particular matter arising under the repayment plan.

(3) The Adjudicating Authority may issue directions to the resolution professional on the basis of an application under sub-section (2).

117. (1) The resolution professional shall within fourteen days of the completion of the repayment plan, forward to the persons who are bound by the repayment plan under section 115 and the Adjudicating Authority, the following documents, namely:—

Completion of repayment plan.

(a) a notice that the repayment plan has been fully implemented; and

(b) a copy of a report by the resolution professional summarising all receipts and payments made in pursuance of the repayment plan and extent of the implementation of such plan as compared with the repayment plan approved by the meeting of the creditors.

(2) The resolution professional may apply to the Adjudicating Authority to extend the time mentioned in sub-section (1) for such further period not exceeding seven days.

118. (1) A repayment plan shall be deemed to have come to an end prematurely if it has not been fully implemented in respect of all persons bound by it within the period as mentioned in the repayment plan.

Repayment plan coming to end prematurely.

(2) Where a repayment plan comes to an end prematurely under this section, the resolution professional shall submit a report to the Adjudicating Authority which shall state—

(a) the receipts and payments made in pursuance of the repayment plan;

(b) the reasons for premature end of the repayment plan; and

(c) the details of the creditors whose claims have not been fully satisfied.

(3) The Adjudicating Authority shall pass an order on the basis of the report submitted under sub-section (2) by the resolution professional that the repayment plan has not been completely implemented.

(4) The debtor or the creditor, whose claims under repayment plan have not been fully satisfied, shall be entitled to apply for a bankruptcy order under Chapter IV.



(5) The Adjudicating Authority shall forward to the persons bound by the repayment plan under section 115, a copy of the—

(a) report submitted by the resolution professional to the Adjudicating Authority under sub-section (2); and

(b) order passed by the Adjudicating Authority under sub-section (3).

(6) The Adjudicating Authority shall forward a copy of the order passed under sub-section (4) to the Board, for the purpose of recording entries in the register referred to in section 196.

Discharge  
order.

**119.** (1) On the basis of the repayment plan, the resolution professional shall apply to the Adjudicating Authority for a discharge order in relation to the debts mentioned in the repayment plan and the Adjudicating Authority may pass such discharge order.

(2) The repayment plan may provide for—

(a) early discharge; or

(b) discharge on complete implementation of the repayment plan.

(3) The discharge order shall be forwarded to the Board, for the purpose of recording entries in the register referred to in section 196.

(4) The discharge order under sub-section (3) shall not discharge any other person from any liability in respect of his debt.

Standard of  
conduct.

**120.** The resolution professional shall perform his functions and duties in compliance with the code of conduct provided under section 208.

#### CHAPTER IV

##### BANKRUPTCY ORDER FOR INDIVIDUALS AND PARTNERSHIP FIRMS

Application  
for  
bankruptcy.

**121.** (1) An application for bankruptcy of a debtor may be made, by a creditor individually or jointly with other creditors or by a debtor, to the Adjudicating Authority in the following circumstances, namely;—

(a) where an order has been passed by an Adjudicating Authority under sub-section 4 of section 100; or

(b) where an order has been passed by an Adjudicating Authority under sub-section 2 of section 115; or

(c) where an order has been passed by an Adjudicating Authority under sub-section 3 of section 118.

(2) An application for bankruptcy shall be filed within a period of three months of the date of the order passed by the Adjudicating Authority under the sections referred to in sub-section (1).

(3) Where the debtor is a firm, the application under sub-section (1) may be filed by any of its partners.

Application  
by debtor.

**122.** (1) The application for bankruptcy by the debtor shall be accompanied by—

(a) the records of insolvency resolution process undertaken under Chapter III of Part III;

(b) the statement of affairs of the debtor in such form and manner as may be prescribed, on the date of the application for bankruptcy; and

(c) a copy of the order passed by the Adjudicating Authority under Chapter III of Part III permitting the debtor to apply for bankruptcy.



(2) The debtor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.

(3) The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.

(4) An application for bankruptcy by the debtor shall not be withdrawn without the leave of the Adjudicating Authority.

123. (1) The application for bankruptcy by the creditor shall be accompanied by—

Application  
by creditor.

(a) the records of insolvency resolution process undertaken under Chapter III;

(b) a copy of the order passed by the Adjudicating Authority under Chapter III permitting the creditor to apply for bankruptcy;

(c) details of the debts owed by the debtor to the creditor as on the date of the application for bankruptcy; and

(d) such other information as may be prescribed.

(2) An application under sub-section (1) made in respect of a debt which is secured, shall be accompanied with—

(a) a statement by the creditor having the right to enforce the security that he shall, in the event of a bankruptcy order being made, give up his security for the benefit of all the creditors of the bankrupt; or

(b) a statement by the creditor stating—

(i) that the application for bankruptcy is only in respect of the unsecured part of the debt; and

(ii) an estimated value of the unsecured part of the debt.

(3) If a secured creditor makes an application for bankruptcy and submits a statement under clause (b) of sub-section (2), the secured and unsecured parts of the debt shall be treated as separate debts.

(4) The creditor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.

(5) An application for bankruptcy under sub-section (1), in case of a deceased debtor, may be filed against his legal representatives.

(6) The application for bankruptcy shall be in such form and manner and accompanied by such fee as may be prescribed.

(7) An application for bankruptcy by the creditor shall not be withdrawn without the permission of the Adjudicating Authority.

124. (1) When an application is filed under sections 122 or 123,—

Effect of  
application.

(a) an interim-moratorium shall commence on the date of the making of the application on all actions against the properties of the debtor in respect of his debts and such moratorium shall cease to have effect on the bankruptcy commencement date; and

(b) during the interim-moratorium period—

(i) any pending legal action or legal proceeding against any property of the debtor in respect of any of his debts shall be deemed to have been stayed;

(ii) the creditors of the debtor shall not be entitled to initiate any legal action or legal proceedings against any property of the debtor in respect of any of his debts.



(2) Where the application has been made in relation to a firm, the interim-moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the making of the application.

(3) The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

Appointment of insolvency professional as bankruptcy trustee.

125. (1) If an insolvency professional is proposed as the bankruptcy trustee in the application for bankruptcy under section 122 or section 123, the Adjudicating Authority shall direct the Board within seven days of receiving the application for bankruptcy to confirm that there are no disciplinary proceedings pending against such professional.

(2) The Board shall within ten days of the receipt of the direction under sub-section (1) in writing either—

(a) confirm the appointment of the proposed insolvency professional as the bankruptcy trustee for the bankruptcy process; or

(b) reject the appointment of the proposed insolvency professional as the bankruptcy trustee and nominate another bankruptcy trustee for the bankruptcy process.

(3) Where a bankruptcy trustee is not proposed by the debtor or creditor under section 122 or 123, the Adjudicating Authority shall direct the Board within seven days of receiving the application to nominate a bankruptcy trustee for the bankruptcy process.

(4) The Board shall nominate a bankruptcy trustee within ten days of receiving the direction of the Adjudicating Authority under sub-section (3).

(5) The bankruptcy trustee confirmed or nominated under this section shall be appointed as the bankruptcy trustee by the Adjudicating Authority in the bankruptcy order— under section 126.

Bankruptcy order.

126. (1) The Adjudicating Authority shall pass a bankruptcy order within fourteen days of receiving the confirmation or nomination of the bankruptcy trustee under section 125.

(2) The Adjudicating Authority shall provide the following documents to bankrupt, creditors and the bankruptcy trustee within seven days of the passing of the bankruptcy order, namely:—

(a) a copy of the application for bankruptcy; and

(b) a copy of the bankruptcy order.

Validity of bankruptcy order.

127. The bankruptcy order passed by the Adjudicating Authority under section 126 shall continue to have effect till the debtor is discharged under section 138.

Effect of bankruptcy order.

128. (1) On the passing of the bankruptcy order under section 126,—

(a) the estate of the bankrupt shall vest in the bankruptcy trustee as provided in section 154;

(b) the estate of the bankrupt shall be divided among his creditors;

(c) subject to provisions of sub-section (2), a creditor of the bankrupt indebted in respect of any debt claimed as a bankruptcy debt shall not—

(i) initiate any action against the property of the bankrupt in respect of such debt; or

(ii) commence any suit or other legal proceedings except with the leave of the Adjudicating Authority and on such terms as the Adjudicating Authority may impose.



(2) Subject to the provisions of section 123, the bankruptcy order shall not affect the right of any secured creditor to realise or otherwise deal with his security interest in the same manner as he would have been entitled if the bankruptcy order had not been passed:

Provided that no secured creditor shall be entitled to any interest in respect of his debt after the bankruptcy commencement date if he does not take any action to realise his security within thirty days from the said date.

(3) Where a bankruptcy order under section 126 has been passed against a firm, the order shall operate as if it were a bankruptcy order made against each of the individuals who, on the date of the order, is a partner in the firm.

(4) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

129. (1) Where a bankruptcy order is passed on the application for bankruptcy by a creditor under section 123, the bankrupt shall submit his statement of financial position to the bankruptcy trustee within seven days from the bankruptcy commencement date.

Statement of  
financial  
position.

(2) The statement of financial position shall be submitted in the such form and manner as may be prescribed.

(3) Where the bankrupt is a firm, its partners on the date of the order shall submit a joint statement of financial position of the firm, and each partner of the firm shall submit a statement of his financial position.

(4) The bankruptcy trustee may require the bankrupt or any other person to submit in writing further information explaining or modifying any matter contained in the statement of financial position.

130. (1) The Adjudicating Authority shall—

(a) send notices within ten days of the bankruptcy commencement date, to the creditors mentioned in—

Public notice  
inviting  
claims from  
creditors.

(i) the statement of affairs submitted by the bankrupt under section 129; or

(ii) the application for bankruptcy submitted by the bankrupt under section 122.

(b) issue a public notice inviting claims from creditors.

(2) The public notice under clause (b) of sub-section (1) shall include the last date up to which the claims shall be submitted and such other matters and details as may be prescribed and shall be—

(a) published in leading newspapers, one in English and another in vernacular having sufficient circulation where the bankrupt resides;

(b) affixed on the premises of the Adjudicating Authority; and

(c) placed on the website of the Adjudicating Authority.

(3) The notice to the creditors referred to under clause (a) of sub-section (1) shall include such matters and details as may be prescribed.

131. (1) The creditors shall register claims with the bankruptcy trustee within seven days of the publication of the public notice, by sending details of the claims to the bankruptcy trustee in such manner as may be prescribed.

Registration  
of claims.

(2) The creditor, in addition to the details of his claims, shall provide such other information and in such manner as may be prescribed.



Preparation  
of list of  
creditors.

**132.** The bankruptcy trustee shall, within fourteen days from the bankruptcy commencement date, prepare a list of creditors of the bankrupt on the basis of—

(a) the information disclosed by the bankrupt in the application for bankruptcy filed by the bankrupt under section 118 and the statement of affairs filed under section 125; and

(b) claims received by the bankruptcy trustee under sub-section (2) of section 130.

Summoning of  
meeting of  
creditors.

**133. (1)** The bankruptcy trustee shall, within twenty-one days from the bankruptcy commencement date, issue a notice for calling a meeting of the creditors, to every creditor of the bankrupt as mentioned in the list prepared under section 132.

(2) The notices issued under sub-section (1) shall—

(a) state the date of the meeting of the creditors, which shall not be later than twenty-one days from the bankruptcy commencement date;

(b) be accompanied with forms of proxy voting;

(c) specify the form and manner in which the proxy voting may take place.

(3) The proxy voting, including electronic proxy voting shall take place in such manner and form as may be specified.

Conduct of  
meeting of  
creditors.

**134. (1)** The bankruptcy trustee shall be the convener of the meeting of the creditors summoned under section 133.

(2) The bankruptcy trustee shall decide the quorum for the meeting of the creditors, and conduct the meeting only if the quorum is present.

(3) The following business shall be conducted in the meeting of the creditors in which regard a resolution may be passed, namely:—

(a) the establishment of a committee of creditors;

(b) any other business that the bankruptcy trustee thinks fit to be transacted.

(4) The bankruptcy trustee shall cause the minutes of the meeting of the creditors to be recorded, signed and retained as a part of the records of the bankruptcy process.

(5) The bankruptcy trustee shall not adjourn the meeting of the creditors for any purpose for more than seven days at a time.

Voting rights  
of creditors.

**135. (1)** Every creditor mentioned in the list under section 132 or his proxy shall be entitled to vote in respect of the resolutions in the meeting of the creditors in accordance with the voting share assigned to him.

(2) The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board.

(3) A creditor shall not be entitled to vote in respect of a debt for an unliquidated amount.

(4) The following creditors shall not be entitled to vote under this section, namely:—

(a) creditors who are not mentioned in the list of creditors under section 132 and those who have not been given a notice by the bankruptcy trustee;

(b) creditors who are associates of the bankrupt.

Administration  
and  
distribution of  
estate of  
bankrupt.

**136.** The bankruptcy trustee shall conduct the administration and distribution of the estate of the bankrupt in accordance with the provisions of Chapter V.



137. (1) The bankruptcy trustee shall convene a meeting of the committee of creditors on completion of the administration and distribution of the estate of the bankrupt in accordance with the provisions of Chapter V.

Completion  
of  
administration.

(2) The bankruptcy trustee shall provide the committee of creditors with a report of the administration of the estate of the bankrupt in the meeting of the said committee.

(3) The committee of creditors shall approve the report submitted by the bankruptcy trustee under sub-section (2) within seven days of the receipt of the report and determine whether the bankruptcy trustee should be released under section 148.

(4) The bankruptcy trustee shall retain sufficient sums from the estate of the bankrupt to meet the expenses of convening and conducting the meeting required under this section during the administration of the estate.

138. (1) The bankruptcy trustee shall apply to the Adjudicating Authority for a discharge order—

Discharge  
order.

(a) on the expiry of one year from the bankruptcy commencement date; or

(b) within seven days of the approval of the committee of creditors of the completion of administration of the estates of the bankrupt under section 137, where such approval is obtained prior to the period mentioned in clause (a).

(2) The Adjudicating Authority shall pass a discharge order on an application by the bankruptcy trustee under sub-section (1).

(3) A copy of the discharge order shall be provided to the Board for the purpose of recording an entry in the register referred to in section 196.

139. The discharge order under sub-section (2) of section 138 shall release the bankrupt from all the bankruptcy debt:

Effect of  
discharge.

Provided that discharge shall not—

(a) affect the functions of the bankruptcy trustee; or

(b) affect the operation of the provisions of Chapters IV and V of Part III; or

(c) release the bankrupt from any debt incurred by means of fraud or breach of trust to which he was a party; or

(d) discharge the bankrupt from any excluded debt.

140. (1) The bankrupt shall, from the bankruptcy commencement date, be subject to the disqualifications mentioned in this section.

Disqualification  
of bankrupt.

(2) In addition to any disqualification under any other law for the time being in force, a bankrupt shall be disqualified from—

(a) being appointed or acting as a trustee or representative in respect of any trust, estate or settlement;

(b) being appointed or acting as a public servant;

(c) being elected to any public office where the appointment to such office is by election; and

(d) being elected or sitting or voting as a member of any local authority.

(3) Any disqualification to which a bankrupt may be subject under this section shall cease to have effect, if—

(a) the bankruptcy order against him is modified or recalled under section 142; or

(b) he is discharged under section 138.



*Explanation.*—For the purposes of this section, the term "public servant" shall have the same meaning as assigned to it in section 21 of the Indian Penal Code.

45 of 1860.

Restrictions  
on bankrupt.

141. (1) A bankrupt, from the bankruptcy commencement date, shall—

(a) not act as a director of any company, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company;

(b) without the previous sanction of the bankruptcy trustee, be prohibited from creating any charge on his estate or taking any further debt;

(c) be required to inform his business partners that he is undergoing a bankruptcy process;

(d) prior to entering into any financial or commercial transaction of such value as may be prescribed, either individually or jointly, inform all the parties involved in such transaction that he is undergoing a bankruptcy process;

(e) without the previous sanction of the Adjudicating Authority, be incompetent to maintain any legal action or proceedings in relation to the bankruptcy debts; and

(f) not be permitted to travel overseas without the permission of the Adjudicating Authority.

(2) Any restriction to which a bankrupt may be subject under this section shall cease to have effect, if—

(a) the bankruptcy order against him is modified or recalled under section 142; or

(b) he is discharged under section 138.

Modification  
or recall of  
bankruptcy  
order.

142. (1) The Adjudicating Authority may, on an application or *suo motu*, modify or recall a bankruptcy order, whether or not the bankrupt is discharged, if it appears to the Adjudicating Authority that—

(a) there exists an error apparent on the face of such order; or

(b) both the bankruptcy debts and the expenses of the bankruptcy have, after the making of the bankruptcy order, either been paid for or secured to the satisfaction of the Adjudicating Authority.

(2) Where the Adjudicating Authority modifies or recalls the bankruptcy order under this section, any sale or other disposition of property, payment made or other things duly done by the bankruptcy trustee shall be valid except that the property of the bankrupt shall vest in such person as the Adjudicating Authority may appoint or, in default of any such appointment, revert to the bankrupt on such terms as the Adjudicating Authority may direct.

(3) A copy of the order passed by the Adjudicating Authority under sub-section (1) shall be provided to the Board, for the purpose of recording an entry in the register referred to in section 191.

(4) The modification or recall of the order by the Adjudicating Authority under sub-section (1) shall be binding on all creditors so far as it relates to any debts due to them which form a part of the bankruptcy.

Standard of  
conduct.

143. The bankruptcy trustee shall perform his functions and duties in compliance with the code of conduct provided under section 208.

Fees of  
bankruptcy  
trustee.

144. (1) A bankruptcy trustee appointed for conducting the bankruptcy process shall charge such fees as may be specified in proportion to the value of the estate of the bankrupt.

(2) The fees for the conduct of the bankruptcy process shall be paid to the bankruptcy trustee from the distribution of the estate of the bankrupt in the manner provided in section 178.



145. (1) Where Committee of creditors is of the opinion that at any time during the bankruptcy process, a bankruptcy trustee appointed under section 125 is required to be replaced, it may replace him with another bankruptcy trustee in the manner provided under this section.

Replacement  
of bankruptcy  
trustee.

(2) The Committee of creditors may, at a meeting, by a vote of seventy-five per cent. of voting share, propose to replace the bankruptcy trustee appointed under section 125 with another bankruptcy trustee.

(3) The Committee of creditors may apply to the Adjudicating Authority for the replacement of the bankruptcy trustee.

(4) The Adjudicating Authority shall within seven days of the receipt of the application under sub-section (3) direct the Board to recommend for replacement of bankruptcy trustee.

(5) The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (4), recommend a bankruptcy trustee for replacement against whom no disciplinary proceedings are pending.

(6) The Adjudicating Authority shall, by an order, appoint the bankruptcy trustee as recommended by the Board under sub-section (5) within fourteen days of receiving such recommendation.

(7) The earlier bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (6), on the date of his appointment.

(8) The Adjudicating Authority may give directions to the earlier bankruptcy trustee—

(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy process; and

(b) to co-operate with the new bankruptcy trustee in such matters as may be required.

(9) The earlier bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148.

(10) The bankruptcy trustee appointed under this section shall give a notice of his appointment to the bankrupt within seven days of his appointment.

146. (1) A bankruptcy trustee may resign if—

Resignation  
by  
bankruptcy  
trustee.

(a) he intends to cease practising as an insolvency professional; or

(b) there is conflict of interest or change of personal circumstances which preclude the further discharge of his duties as a bankruptcy trustee.

(2) The Adjudicating Authority shall, within seven days of the acceptance of the resignation of the bankruptcy trustee, direct the Board for his replacement.

(3) The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (2) recommend another bankruptcy trustee as a replacement.

(4) The Adjudicating Authority shall appoint the bankruptcy trustee recommended by the Board under sub-section (3) within fourteen days of receiving the recommendation.

(5) The replaced bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (4), on the date of his appointment.

(6) The Adjudicating Authority may give directions to the bankruptcy trustee who has resigned—



(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy process; and

(b) to co-operate with the new bankruptcy trustee in such matters as may be required.

(7) The bankruptcy trustee appointed under this section shall give a notice of his appointment to the committee of creditors and the bankrupt within seven days of his appointment.

(8) The bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148.

Vacancy in  
office of  
bankruptcy  
trustee.

147. (1) If a vacancy occurs in the office of the bankruptcy trustee for any reason other than his replacement or resignation, the vacancy shall be filled in accordance with the provisions of this section.

(2) In the event of the occurrence of vacancy referred to in sub-section (1), the Adjudicating Authority shall direct the Board for replacement of a bankruptcy trustee.

(3) The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (2), recommend a bankruptcy trustee as a replacement.

(4) The Adjudicating Authority shall appoint the bankruptcy trustee recommended by the Board under sub-section (3) within fourteen days of receiving the recommendation.

(5) The earlier bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (4), on the date of his appointment.

(6) The Adjudicating Authority may give directions to the bankruptcy trustee who has vacated the office—

(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy;

(b) to co-operate with the new bankruptcy trustee in such matters as may be required.

(7) The bankruptcy trustee appointed under sub-section (4) shall give a notice of his appointment to the committee of creditors and the bankrupt within seven days of his appointment.

(8) The earlier bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148:

Provided that this section shall not apply if the vacancy has occurred due to temporary illness or temporary leave of the bankruptcy trustee.

Release of  
bankruptcy  
trustee.

148. (1) A bankruptcy trustee shall be released from his office with effect from the date on which the Adjudicating Authority passes an order appointing a new bankruptcy trustee in the event of replacement, resignation or occurrence of vacancy under sections 145, 146 or section 147, as the case may be.

(2) Notwithstanding the release under sub-section (1), the bankruptcy trustee who has been so released, shall share all information with the new bankruptcy trustee in respect of the bankruptcy process and co-operate with the new bankruptcy trustee in such matters as may be required.

(3) A bankruptcy trustee who has completed the administration of the bankruptcy process shall be released of his duties with effect from the date on which the committee of creditors approves the report of the bankruptcy trustee under section 137.



## CHAPTER V

## ADMINISTRATION AND DISTRIBUTION OF THE ESTATE OF THE BANKRUPT

149. The bankruptcy trustee shall perform the following functions in accordance with the provisions of this Chapter—

Functions of  
bankruptcy  
trustee.

- (a) investigate the affairs of the bankrupt;
- (b) realise the estate of the bankrupt; and
- (c) distribute the estate of the bankrupt.

150. (1) The bankrupt shall assist the bankruptcy trustee in carrying out his functions under this Chapter by—

Duties of  
bankrupt  
towards  
bankruptcy  
trustee.

- (a) giving to the bankruptcy trustee the information of his affairs;
- (b) attending on the bankruptcy trustee at such times as may be required;
- (c) giving notice to the bankruptcy trustee of any of the following events which have occurred after the bankruptcy commencement date,—
  - (i) acquisition of any property by the bankrupt;
  - (ii) devolution of any property upon the bankrupt;
  - (iii) increase in the income of the bankrupt;
- (d) doing all other things as may be prescribed.

(2) The bankrupt shall give notice of the increase in income or acquisition or devolution of property under clause (c) of sub-section (1) within seven days of such increase, acquisition or devolution.

(3) The bankrupt shall continue to discharge the duties under sub-section (1) other than the duties under clause (c) even after the discharge under section 138.

151. For the purpose of performing his functions under this Chapter, the bankruptcy trustee may, by his official name—

Rights of  
bankruptcy  
trustee.

- (a) hold property of every description;
- (b) make contracts;
- (c) sue and be sued;
- (d) enter into engagements in respect of the estate of the bankrupt;
- (e) employ persons to assist him;
- (f) execute any power of attorney, deed or other instrument; and
- (g) do any other act which is necessary or expedient for the purposes of or in connection with the exercise of his rights.

152. The bankruptcy trustee may while discharging his functions under this Chapter,—

General powers  
of bankruptcy  
trustee.

- (a) sell any part of the estate of the bankrupt;
- (b) give receipts for any money received by him;
- (c) prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate;
- (d) where any property comprised in the estate of the bankrupt is held by any person by way of pledge or hypothecation, exercise the right of redemption in respect of any such property subject to the relevant contract by giving notice to the said person;



(e) where any part of the estate of the bankrupt consists of securities in a company or any other property which is transferable in the books of a person, exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt; and

(f) deal with any property comprised in the estate of the bankrupt to which the bankrupt is beneficially entitled in the same manner as he might have dealt with it.

Approval of  
creditors for  
certain acts.

153. The bankruptcy trustee for the purposes of this Chapter may after procuring the approval of the committee of creditors,—

(a) carry on any business of the bankrupt as far as may be necessary for winding it up beneficially;

(b) bring, institute or defend any legal action or proceedings relating to the property comprised in the estate of the bankrupt;

(c) accept as consideration for the sale of any property a sum of money due at a future time subject to certain stipulations such as security;

(d) mortgage or pledge any property for the purpose of raising money for the payment of the debts of the bankrupt;

(e) where any right, option or other power forms part of the estate of the bankrupt, make payments or incur liabilities with a view to obtaining, for the benefit of the creditors, any property which is the subject of such right, option or power;

(f) refer to arbitration or compromise on such terms as may be agreed, any debts subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt;

(g) make compromise or other arrangement as may be considered expedient, with the creditors;

(h) make compromise or other arrangement as he may deem expedient with respect to any claim arising out of or incidental to the bankrupt's estate;

(i) appoint the bankrupt to—

(A) supervise the management of the estate of the bankrupt or any part of it;

(B) carry on his business for the benefit of his creditors;

(C) assist the bankruptcy trustee in administering the estate of the bankrupt.

Vesting of  
estate of  
bankrupt in  
bankruptcy  
trustee.

154. (1) The estate of the bankrupt shall vest in the bankruptcy trustee immediately from the date of his appointment.

(2) The vesting under sub-section (1) shall take effect without any conveyance, assignment or transfer.

Estate of  
bankrupt.

155. (1) The estate of the bankrupt shall include,—

(a) all property belonging to or vested in the bankrupt at the bankruptcy commencement date;

(b) the capacity to exercise and to initiate proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the bankruptcy commencement date or before the date of the discharge order passed under section 138; and

(c) all property which by virtue of any of the provisions of this Chapter is comprised in the estate.

(2) The estate of the bankrupt shall not include—



- (a) excluded assets;
- (b) property held by the bankrupt on trust for any other person;
- (c) all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund; and
- (d) such assets as may be notified by the Central Government in consultation with any financial sector regulator.

156. The bankrupt, his banker or agent or any other person having possession of any property, books, papers or other records which bankruptcy trustee is required to take possession for the purposes of the bankruptcy process shall deliver the said property and documents to the bankruptcy trustee.

Delivery of property and documents to bankruptcy trustee.

157. (1) The bankruptcy trustee shall take possession and control of all property, books, papers and other records relating to the estate of the bankrupt or affairs of the bankrupt which belong to him or are in his possession or under his control.

Acquisition of control by bankruptcy trustee.

(2) Where any part of the estate of the bankrupt consists of things in actionable claims, they shall be deemed to have been assigned to the bankruptcy trustee without any notice of the assignment.

158. (1) Any disposition of property made by the debtor, during the period between the date of filing of the application for bankruptcy and the bankruptcy commencement date shall be void.

Restrictions on disposition of property.

(2) Any disposition of property made under sub-section (1) shall not give rise to any right against any person, in respect of such property, even if he has received such property before the bankruptcy commencement date in—

- (a) good faith;
- (b) for value; and
- (c) without notice of the filing of the application for bankruptcy.

(3) For the purposes of this section, the term "property" means all the property of the debtor, whether or not it is comprised in the estate of the bankrupt, but shall not include property held by the debtor in trust for any other person.

159. (1) The bankruptcy trustee shall be entitled to claim for the estate of the bankrupt, any after-acquired property by giving a notice to the bankrupt.

After-acquired property of bankrupt.

(2) A notice under sub-section (1) shall not be served in respect of—

- (a) excluded assets; or
- (b) any property which is acquired by or devolves upon the bankrupt after a discharge order is passed under section 138.

(3) The notice under sub-section (2) shall be given within fifteen days from the day on which the acquisition or devolution of the after-acquired property comes to the knowledge of the bankruptcy trustee.

(4) For the purposes of sub-section (3)—

(a) anything which comes to the knowledge of the bankruptcy trustee shall be deemed to have come to the knowledge of the successor of the bankruptcy trustee at the same time; and

(b) anything which comes to the knowledge of a person before he is appointed as a bankruptcy trustee shall be deemed to have come to his knowledge on the date of his appointment as bankruptcy trustee.



(5) The bankruptcy trustee shall not be entitled, by virtue of this section, to claim from any person who has acquired any right over after-acquired property, in good faith, for value and without notice of the bankruptcy.

(6) A notice may be served after the expiry of the period under sub-section (3) only with the approval of the Adjudicating Authority.

*Explanation.*—For the purposes of this section, the term "after-acquired property" means any property which has been acquired by or has devolved upon the bankrupt after the bankruptcy commencement date.

Onerous  
property of  
bankrupt.

160. (1) The bankruptcy trustee may, by giving notice to the bankrupt or any person interested in the onerous property, disclaim any onerous property which forms a part of the estate of the bankrupt.

(2) The bankruptcy trustee may give the notice under sub-section (1) notwithstanding that he has taken possession of the onerous property, endeavoured to sell it or has exercised rights of ownership in relation to it.

(3) A notice of disclaimer under sub-section (1) shall—

(a) determine, as from the date of such notice, the rights, interests and liabilities of the bankrupt in respect of the onerous property disclaimed;

(b) discharge the bankruptcy trustee from all personal liability in respect of the onerous property as from the date of appointment of the bankruptcy trustee.

(4) A notice of disclaimer under sub-section (1) shall not be given in respect of the property which has been claimed for the estate of the bankrupt under section 155 without the permission of the committee of creditors.

(5) A notice of disclaimer under sub-section (1) shall not affect the rights or liabilities of any other person, and any person who sustains a loss or damage in consequence of the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the loss or damage.

*Explanation.*—For the purposes of this section, the term "onerous property" means—

(i) any unprofitable contract; and

(ii) any other property comprised in the estate of the bankrupt which is unsaleable or not readily saleable, or is such that it may give rise to a claim.

Notice to  
disclaim  
onerous  
property.

161. (1) No notice of disclaimer under section 160 shall be necessary if—

(a) a person interested in the onerous property has applied in writing to the bankruptcy trustee or his predecessor requiring him to decide whether the onerous property should be disclaimed or not; and

(b) a decision under clause (a) has not been taken by the bankruptcy trustee within seven days of receipt of the notice.

(2) Any onerous property which cannot be disclaimed under sub-section (1) shall be deemed to be part of the estate of the bankrupt.

*Explanation.*—For the purposes of this section, an onerous property is said to be disclaimed where notice in relation to that property has been given by the bankruptcy trustee under section 160.

Disclaimer of  
leaseholds.

162. (1) The bankruptcy trustee shall not be entitled to disclaim any leasehold interest, unless a notice of disclaimer has been served on every interested person and—



(a) no application objecting to the disclaimer by the interested person, has been filed with respect to the leasehold interest, within fourteen days of the date on which notice was served; and

(b) where the application objecting to the disclaimer has been filed by the interested person, the Adjudicating Authority has directed under section 163 that the disclaimer shall take effect.

(2) Where the Adjudicating Authority gives a direction under clause (b) of sub-section (1), it may also make order with respect to fixtures, improvements by tenant and other matters arising out of the lease as it may think fit.

163. (1) An application challenging the disclaimer may be made by the following persons under this section to the Adjudicating Authority—

Challenge  
against  
disclaimed  
property.

(a) any person who claims an interest in the disclaimed property; or

(b) any person who is under any liability in respect of the disclaimed property; or

(c) where the disclaimed property is a dwelling house, any person who on the date of application for bankruptcy was in occupation of or entitled to occupy that dwelling house.

(2) The Adjudicating Authority may on an application under sub-section (1) make an order for the vesting of the disclaimed property in, or for its delivery to any of the persons mentioned in sub-section (1).

(3) The Adjudicating Authority shall not make an order in favour of a person who has made an application under clause (b) of sub-section (1) except where it appears to the Adjudicating Authority that it would be just to do so for the purpose of compensating the person.

(4) The effect of an order under this section shall be taken into account while assessing loss or damage sustained by any person in consequence of the disclaimer under sub-section (5) of section 160.

(5) An order under sub-section (2) vesting property in any person need not be completed by any consequence, assignment or transfer.

164. (1) The bankruptcy trustee may apply to the Adjudicating Authority for an order under this section in respect of an undervalued transaction between a bankrupt and any person.

Undervalued  
transactions.

(2) The undervalued transaction referred to in sub-section (1) should have—

(a) been entered into during the period of two years ending on the filing of the application for bankruptcy; and

(b) caused bankruptcy process to be triggered.

(3) A transaction between a bankrupt and his associate entered into during the period of two years preceding the date of making of the application for bankruptcy shall be deemed to be an undervalued transaction under this section.

(4) On the application of the bankruptcy trustee under sub-section (1), the Adjudicating Authority may—

(a) pass an order declaring an undervalued transaction void;

(b) pass an order requiring any property transferred as a part of an undervalued transaction to be vested with the bankruptcy trustee as a part of the estate of the bankrupt; and



(c) pass any other order it thinks fit for restoring the position to what it would have been if the bankrupt had not entered into the undervalued transaction.

(5) The order under clause (a) of sub-section (4) shall not be passed if it is proved by the bankrupt that the transaction was undertaken in the ordinary course of business of the bankrupt:

Provided that the provisions of this sub-section shall not be applicable to undervalued transaction entered into between a bankrupt and his associate under sub-section (3) of this section.

(6) For the purposes of this section, a bankrupt enters into an undervalued transaction with any person if—

(a) he makes a gift to that person;

(b) no consideration has been received by that person from the bankrupt;

(c) it is in consideration of marriage; or

(d) it is for a consideration, the value of which in money or money's worth is significantly less than the value in money or money's worth of the consideration provided by the bankrupt.

Preference  
transactions.

165. (1) The bankruptcy trustee may apply to the Adjudicating Authority for an order under this section if a bankrupt has given a preference to any person.

(2) The transaction giving preference to an associate of the bankrupt under sub-section (1) should have been entered into by the bankrupt with the associate during the period of two years ending on the date of the application for bankruptcy.

(3) Any transaction giving preference not covered under sub-section (2) should have been entered into by the bankrupt during the period of six months ending on the date of the application for bankruptcy.

(4) The transaction giving preference under sub-section (2) or under sub-section (3) should have caused the bankruptcy process to be triggered.

(5) On the application of the bankruptcy trustee under sub-section (1), the Adjudicating Authority may—

(a) pass an order declaring a transaction giving preference void;

(b) pass an order requiring any property transferred in respect of a transaction giving preference to be vested with the bankruptcy trustee as a part of the estate of the bankrupt; and

(c) pass any other order it thinks fit for restoring the position to what it would have been if the bankrupt had not entered into the transaction giving preference.

(6) The Adjudicating Authority shall not pass an order under sub-section (5) unless the bankrupt was influenced in his decision of giving preference to a person by a desire to produce in relation to that person an effect under clause (b) of sub-section (8).

(7) For the purpose of sub-section (6), if the person is an associate of the bankrupt, (otherwise than by reason only of being his employee), at the time when the preference was given, it shall be presumed that the bankrupt was influenced in his decision under that sub-section.

(8) For the purposes of this section, a bankrupt shall be deemed to have entered into a transaction giving preference to any person if—

(a) the person is the creditor or surety or guarantor for any debt of the bankrupt; and



(b) the bankrupt does anything or suffers anything to be done which has the effect of putting that person into a position which, in the event of the debtor becoming a bankrupt, will be better than the position he would have been in, if that thing had not been done.

166. (1) Subject to the provision of sub-section (2), an order passed by the Adjudicating Authority under section 164 or section 165 shall not,— Effect of order.

(a) give rise to a right against a person interested in the property which was acquired in an undervalued transaction or a transaction giving preference, whether or not he is the person with whom the bankrupt entered into such transaction; and

(b) require any person to pay a sum to the bankruptcy trustee in respect of the benefit received from the undervalued transaction or a transaction giving preference, whether or not he is the person with whom the bankrupt entered into such transaction.

(2) The provision of sub-section (1) shall apply only if the interest was acquired or the benefit was received—

(a) in good faith;

(b) for value;

(c) without notice that the bankrupt entered into the transaction at an undervalue or for giving preference;

(d) without notice that the bankrupt has filed an application for bankruptcy or a bankruptcy order has been passed; and

(e) by any person who at the time of acquiring the interest or receiving the benefit was not an associate of the bankrupt.

(3) Any sum required to be paid to the bankruptcy trustee under sub-section (1) shall be included in the estate of the bankrupt.

167. (1) Subject to sub-section (6), on an application by the bankruptcy trustee, the Adjudicating Authority may make an order under this section in respect of extortionate credit transactions to which the bankrupt is or has been a party. Extortionate credit transactions.

(2) The transactions under sub-section (1) should have been entered into by the bankrupt during the period of two years ending on the bankruptcy commencement date.

(3) An order of the Adjudicating Authority may—

(a) set aside the whole or part of any debt created by the transaction;

(b) vary the terms of the transaction or vary the terms on which any security for the purposes of the transaction is held;

(c) require any person who has been paid by the bankrupt under any transaction, to pay a sum to the bankruptcy trustee;

(d) require any person to surrender to the bankruptcy trustee any property of the bankrupt held as security for the purposes of the transaction.

(4) Any sum paid or any property surrendered to the bankruptcy trustee shall be included in the estate of the bankrupt.

(5) For the purposes of this section, an extortionate credit transaction is a transaction for or involving the provision of credit to the bankrupt by any person—

(a) on terms requiring the bankrupt to make exorbitant payments in respect of the credit provided; or

(b) which is unconscionable under the principles of law relating to contracts.



(6) Any debt extended by a person regulated for the provision of financial services in compliance with the law in force in relation to such debt, shall not be considered as an extortionate credit transaction under this section.

Obligations  
under  
contracts.

**168. (1)** This section shall apply where a contract has been entered into by the bankrupt with a person before the bankruptcy commencement date.

(2) Any party to a contract, other than the bankrupt under sub-section (1), may apply to the Adjudicating Authority for—

(a) an order discharging the obligations of the applicant or the bankrupt under the contract; and

(b) payment of damages by the party or the bankrupt, for non-performance of the contract or otherwise.

(3) Any damages payable by the bankrupt by virtue of an order under clause (b) of sub-section (2) shall be provable as bankruptcy debt.

(4) When a bankrupt is a party to the contract under this section jointly with another person, that person may sue or be sued in respect of the contract without joinder of the bankrupt.

Continuance  
of proceedings  
on death of  
bankrupt.

**169.** If a bankrupt dies, the bankruptcy proceedings shall, continue as if he were alive.

Administration  
of estate of  
deceased  
bankrupt.

**170. (1)** All the provisions of Chapter V relating to the administration and distribution of the estate of the bankrupt shall, so far as the same are applicable, apply to the administration of the estate of a deceased bankrupt.

(2) While administering the estate of a deceased bankrupt, the bankruptcy trustee shall have regard to the claims by the legal representatives of the deceased bankrupt to payment of the proper funeral and testamentary expenses incurred by them.

(3) The claims under sub-section (2) shall rank equally to the secured creditors in the priority provided under section 178.

(4) If, on the administration of the estate of a deceased bankrupt, any surplus remains in the hands of the bankruptcy trustee after payment in full of all the debts due from the deceased bankrupt, together with the costs of the administration and interest as provided under section 178, such surplus shall be paid to the legal representatives of the estate of the deceased bankrupt or dealt with in such manner as may be prescribed.

Proof of debt.

**171. (1)** The bankruptcy trustee shall give notice to each of the creditors to submit proof of debt within fourteen days of preparing the list of creditors under section 132.

(2) The proof of debt shall—

(a) require the creditor to give full particulars of debt, including the date on which the debt was contracted and the value at which that person assesses it;

(b) require the creditor to give full particulars of the security, including the date on which the security was given and the value at which that person assesses it;

(c) be in such form and manner as may be prescribed.

(3) In case the creditor is a decree holder against the bankrupt, a copy of the decree shall be a valid proof of debt.

(4) Where a debt bears interest, that interest shall be provable as part of the debt except in so far as it is owed in respect of any period after the bankruptcy commencement date.



(5) The bankruptcy trustee shall estimate the value of any bankruptcy debt which does not have a specific value.

(6) The value assigned by the bankruptcy trustee under sub-section (5) shall be the amount provable by the concerned creditor.

(7) A creditor may prove for a debt where payment would have become due at a date later than the bankruptcy commencement date as if it were owed presently and may receive dividends in a manner as may be prescribed.

(8) Where the bankruptcy trustee serves a notice under sub-section (1) and the person on whom the notice is served does not file a proof of security within thirty days after the date of service of the notice, the bankruptcy trustee may, with leave of the Adjudicating Authority, sell or dispose of any property that was subject to the security, free of that security.

172. (1) Where a secured creditor realises his security, he may produce proof of the balance due to him.

Proof of debt  
by secured  
creditors.

(2) Where a secured creditor surrenders his security to the bankruptcy trustee for the general benefit of the creditors, he may produce proof of his whole claim.

173. (1) Where before the bankruptcy commencement date, there have been mutual dealings between the bankrupt and any creditor, the bankruptcy trustee shall—

Mutual credit  
and set-off.

(a) take an account of what is due from each party to the other in respect of the mutual dealings and the sums due from one party shall be set-off against the sums due from the other; and

(b) only the balance shall be provable as a bankruptcy debt or as the amount payable to the bankruptcy trustee as part of the estate of the bankrupt.

(2) Sums due from the bankrupt to another party shall not be included in the account taken by the bankruptcy trustee under sub-section (1), if that other party had notice at the time they became due that an application for bankruptcy relating to the bankrupt was pending.

174. (1) Whenever the bankruptcy trustee has sufficient funds in his hand, he may declare and distribute interim dividend among the creditors in respect of the bankruptcy debts which they have respectively proved.

Distribution of  
interim  
dividend.

(2) Where the bankruptcy trustee has declared any interim dividend, he shall give notice of such dividend and the manner in which it is proposed to be distributed.

(3) In the calculation and distribution of the interim dividend, the bankruptcy trustee shall make provision for—

(a) any bankruptcy debts which appear to him to be due to persons who, by reason of the distance of their place of residence, may not have had sufficient time to tender and establish their debts; and

(b) any bankruptcy debts which are subject of claims which have not yet been determined;

(c) disputed proofs and claims; and

(d) expenses necessary for the administration of the estate of the bankrupt.

175. (1) The bankruptcy trustee may, with the approval of the committee of creditors, divide in its existing form amongst the creditors, according to its estimated value, any property in its existing form which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

Distribution of  
property.



(2) An approval under sub-section (1) shall be sought by the bankruptcy trustee for each transaction, and a person dealing with the bankruptcy trustee in good faith and for value shall not be required to enquire whether any approval required under sub-section (1) has been given.

(3) Where the bankruptcy trustee has done anything without the approval of the committee of creditors, the committee may, for the purpose of enabling him to meet his expenses out of the estate of the bankrupt, ratify the act of the bankruptcy trustee.

(4) The committee of the creditors shall not ratify the act of the bankruptcy trustee under sub-section (3) unless it is satisfied that the bankruptcy trustee acted in a case of urgency and has sought its ratification without undue delay.

Final dividend.

176. (1) Where the bankruptcy trustee has realised the entire estate of the bankrupt or so much of it as could be realised in the opinion of the bankruptcy trustee, he shall give notice—

(a) of his intention to declare a final dividend; or

(b) that no dividend or further dividend shall be declared.

(2) The notice under sub-section (1) shall contain such particulars as may be prescribed and shall require all claims against the estate of the bankrupt to be established by a final date specified in the notice.

(3) The Adjudicating Authority may, on the application of any person interested in the administration of the estate of the bankrupt, postpone the final date referred to in sub-section (2).

(4) After the final date referred to in sub-section (2), the bankruptcy trustee shall—

(a) defray any outstanding expenses of the bankruptcy out of the estate of the bankrupt; and

(b) if he intends to declare a final dividend, declare and distribute that dividend among the creditors who have proved their debts, without regard to the claims of any other persons.

(5) If a surplus remains after payment in full with interest to all the creditors of the bankrupt and the payment of the expenses of the bankruptcy, the bankrupt shall be entitled to the surplus.

(6) Where a bankruptcy order has been passed in respect of one partner in a firm, a creditor to whom the bankrupt is indebted jointly with the other partners in the firm or any of them shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

Claims of  
creditors.

177. (1) A creditor who has not proved his debt before the declaration of any dividend is not entitled to disturb, by reason that he has not participated in it, the distribution of that dividend or any other dividend declared before his debt was proved, but—

(a) when he has proved the debt, he shall be entitled to be paid any dividend or dividends which he has failed to receive, out of any money for the time being available for the payment of any further dividend; and

(b) any dividend or dividends payable to him shall be paid before that money is applied to the payment of any such further dividend.

(2) No action shall lie against the bankruptcy trustee for a dividend, but if the bankruptcy trustee refuses to pay a dividend payable under sub-section (1), the Adjudicating Authority may order him to—

(a) pay the dividend; and



(b) pay, out of his own money—

(i) interest on the dividend; and

(ii) the costs of the proceedings in which the order to pay has been made.

178. (1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or the State Legislature for the time being in force, in the distribution of the final dividend, the following debts shall be paid in priority to all other debts—

Priority of  
payment of  
debts.

(a) firstly, the costs and expenses incurred by the bankruptcy trustee for the bankruptcy process in full;

(b) secondly,—

(i) the workmen's dues for the period of twenty-four months preceding the bankruptcy commencement date; and

(ii) debts owed to secured creditors;

(c) thirdly, wages and any unpaid dues owed to employees, other than workmen, of the bankrupt for the period of twelve months preceding the bankruptcy commencement date;

(d) fourthly, any amount due to the Central Government and the State Government including the amount to be received on account of Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the bankruptcy commencement date;

(e) lastly, all other debts and dues owed by the bankrupt including unsecured debts.

(2) The debts in each class specified in sub-section (1) shall rank in the order mentioned in that sub-section but debts of the same class shall rank equally amongst themselves, and shall be paid in full, unless the estate of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Where any creditor has given any indemnity or has made any payment of moneys by virtue of which any asset of the bankrupt has been recovered, protected or preserved, the Adjudicating Authority may make such order as it thinks just with respect to the distribution of such asset with a view to giving that creditor an advantage over other creditors in consideration of the risks taken by him in so doing.

(4) Unsecured creditors shall rank equally amongst themselves unless contractually agreed to the contrary by such creditors.

(5) Any surplus remaining after the payment of the debts under sub-section (1) shall be applied in paying interest on those debts in respect of the periods during which they have been outstanding since the bankruptcy commencement date.

(6) Interest payments under sub-section (5) shall rank equally irrespective of the nature of the debt.

(7) In the case of partners, the partnership property shall be applicable in the first instance in payment of the partnership debts and the separate property of each partner shall be applicable in the first instance in payment of his separate debts.

(8) Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.



## CHAPTER VI

## ADJUDICATING AUTHORITY FOR INDIVIDUALS AND PARTNERSHIP FIRMS

Adjudicating  
Authority for  
individuals  
and  
partnership  
firms.

179. (1) Subject to the provisions of section 60, the Adjudicating Authority, in relation to insolvency matters of individuals and firms shall be the Debt Recovery Tribunal having territorial jurisdiction over the place where the individual debtor actually and voluntarily resides or carries on business or personally works for gain and can entertain an application under this Code regarding such person.

(2) The Debt Recovery Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain or dispose of—

(a) any suit or proceeding by or against the individual debtor;

(b) any claim made by or against the individual debtor;

(c) any question of priorities or any other question whether of law or facts, arising out of or in relation to insolvency and bankruptcy of the individual debtor or firm under this Code.

(3) Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded. 14 of 1963.

Civil court not  
to have  
jurisdiction.

180. (1) No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal has jurisdiction under this Code.

(2) No injunction shall be granted by any court, tribunal or authority in respect of any action taken, or to be taken, in pursuance of any power conferred on the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal by or under this Code.

Appeal to Debt  
Recovery  
Appellate  
Tribunal.

181. (1) An appeal from an order of the Debt Recovery Tribunal under this Code shall be filed within thirty days before the Debt Recovery Appellate Tribunal.

(2) The Debt Recovery Appellate Tribunal may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within thirty days, allow the appeal to be filed within a further period not exceeding fifteen days.

Appeal to  
Supreme  
Court.

182. (1) An appeal from an order of the Debt Recovery Appellate Tribunal on a question of law under this Code shall be filed within forty-five days before the Supreme Court.

(2) The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within forty-five days, allow the appeal to be filed within a further period not exceeding fifteen days.

Expedition  
disposal of  
applications.

183. Where an application is not disposed of or order is not passed within the period specified in this Code, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be, shall record the reasons for not doing so within the period so specified; and the Chairperson of the Debt Recovery Appellate Tribunal, after taking into account the reasons so recorded, extend the period specified in this Code, but not exceeding ten days.



## CHAPTER VII

## OFFENCES AND PENALTIES

184. (1) If a debtor or creditor provides information which is false in any material particulars to the resolution professional, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both.

Punishment for false information, etc., by creditor in insolvency resolution process.

(2) If a creditor promises to vote in favour of the repayment plan dishonestly by accepting any money, property or security from the debtor, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to three times the amount or its equivalent of such money, property or security accepted by such creditor, as the case may be, or with both:

Provided that where such amount is not quantifiable, the total amount of fine shall not exceed five lakh rupees.

185. If an insolvency professional deliberately contravenes the provisions of this Part, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, which shall not be less than one lakh rupees, but may extend to five lakhs rupees, or with both.

Punishment for contravention of provisions.

186. If the bankrupt—

Punishment for false information, concealment, etc., by bankrupt.

(a) knowingly makes a false representation or wilfully omits or conceals any material information while making an application for bankruptcy under section 122 or while providing any information during the bankruptcy process, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five lakh rupees, or with both;

*Explanation.*—For the purposes of clause (a), a false representation or omission includes non-disclosure of the details of disposal of any property, which but for the disposal, would be comprised in the estate of the bankrupt, other than dispositions made in the ordinary course of business carried on by the bankrupt;

(b) fraudulently has failed to provide or deliberately withheld the production of, destroyed, falsified or altered, his books of account, financial information and other records under his custody or control, he shall be punishable with imprisonment which may extend to one year, or with fine, which may extend to five lakh rupees, or with both;

(c) has contravened the restrictions under section 140 or the provisions of section 141, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five lakh rupees, or with both;

(d) has failed to deliver the possession of any property comprised in the estate of the bankrupt under his possession or control, which he is required to deliver under section 156, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five lakh rupees, or with both;

(e) has failed to account, without any reasonable cause or satisfactory explanation, for any loss incurred of any substantial part of his property comprised in the estate of the bankrupt from the date which is twelve months before the filing of the bankruptcy application, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, which may extend to three times of the value of the loss, or with both:

Provided that that where such loss is not quantifiable, the total amount of fine imposed shall not exceed five lakh rupees;



(f) has absconded or attempts to abscond after the bankruptcy commencement date, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to five lakh rupees, or with both;

*Explanation.*—For the purposes of this clause, a bankrupt shall be deemed to have absconded if he leaves, or attempts to leave the country without delivering the possession of any property which he is required to deliver to the bankruptcy trustee under section 156.

Punishment  
for certain  
actions.

187. If a bankruptcy trustee,—

(a) has fraudulently misapplied, retained or accounted for any money or property comprised in the estate of the bankrupt; or

(b) has wilfully acted in a manner that the estate of the bankrupt has suffered any loss in consequence of breach of any duty of the bankruptcy trustee in carrying out his functions under section 149,

he shall be punishable with imprisonment for a term which may extend to three years, or with fine, which shall not be less than three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention, or with both:

Provided that where such loss or unlawful gain is not quantifiable, the total amount of fine imposed shall not exceed five lakh rupees:

Provided further that the bankruptcy trustee shall not be liable under this section if he seizes or disposes of any property which is not comprised in the estate of the bankrupt and at that time had reasonable grounds to believe that he is entitled to seize or dispose that property.

#### PART IV

#### REGULATION OF INSOLVENCY PROFESSIONALS, AGENCIES AND INFORMATION UTILITIES

#### CHAPTER I

#### THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Establishment  
and  
incorporation  
of Board.

188. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Code, a Board by the name of the Insolvency and Bankruptcy Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Code, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at such place in the National Capital Region, as the Central Government may, by notification, specify.

*Explanation.*—For the purposes of this section, the expression "National Capital Region" shall have the same meaning as assigned to it in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985.

2 of 1985.

(4) The Board may establish offices at other places in India.

Constitution  
of Board.

189. (1) The Board shall consist of the following members who shall be appointed by the Central Government, namely:—

(a) a Chairperson;

(b) three members from amongst the officers of the Central Government not below the rank of Joint Secretary or equivalent, one each to represent the Ministry of Finance, the Ministry of Corporate Affairs and Ministry of Law, *ex officio*;



(c) one member to be nominated by the Reserve Bank of India, *ex officio*;

(d) five other members to be nominated by the Central Government, of whom at least three shall be the whole-time members.

(2) The Chairperson and the other members shall be persons of ability, integrity and standing, who have shown capacity in dealing with problems relating to insolvency or bankruptcy and have special knowledge and experience in the field of law, finance, economics, accountancy or administration.

(3) The appointment of the Chairperson and the members of the Board other than the appointment of an *ex officio* member under this section shall be made after obtaining the recommendation of a selection committee consisting of—

(a) Cabinet Secretary—Chairperson;

(b) Secretary to the Government of India to be nominated by the Central Government—Member;

(c) Chairperson of the Insolvency and Bankruptcy Board of India (in case of selection of members of the Board)—Member;

(d) three experts of repute from the field of finance, law, management, insolvency and related subjects, to be nominated by the Central Government—Members.

(4) The term of office of the Chairperson and members (other than *ex officio* members) shall be five years or till they attain the age of sixty-five years, whichever is earlier, and they shall be eligible for reappointment.

(5) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members (other than the *ex officio* members) shall be such as may be prescribed.

190. The Central Government may remove a member from office if he—

(a) is an undischarged bankrupt as defined under Part III;

(b) has become physically or mentally incapable of acting as a member;

(c) has been convicted of an offence, which in the opinion of the Central Government involves moral turpitude;

(d) has, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under clause (d) unless he has been given a reasonable opportunity of being heard in the matter.

191. Save as otherwise determined by regulations, the Chairperson shall have powers of general superintendence and direction of the affairs of the Board and may also exercise such other powers as may be delegated to him by the Board.

192. (1) The Board shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be determined by regulations.

(2) The Chairperson, or if, for any reason, the Chairperson is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have a second or casting vote.

Removal of  
member from  
office.

Powers of  
Chairperson.

Meetings of  
Board.



Member not to participate in meetings in certain cases.

193. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.

Vacancies, etc., not to invalidate proceedings of Board, Officers and employees of Board.

194. (1) No act or proceeding of the Board shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Board; or
- (b) any defect in the appointment of a person acting as a member of the Board; or
- (c) any irregularity in the procedure of the Board not affecting the merits of the case.

(2) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions in such manner as may be specified.

(3) The salaries and allowances payable to, and other terms and conditions of service of, officers and employees of the Board appointed under sub-section (2) shall be such as may be specified by regulations.

Power to designate financial sector regulator.

195. Until the Board is established, the Central Government may by notification, designate any financial sector regulator to exercise the powers and functions of the Board under this Code.

## CHAPTER II

### POWERS AND FUNCTIONS OF THE BOARD

Powers and functions of Board.

196. (1) The Board shall, subject to the general direction of the Central Government, perform all or any of the following functions namely:—

- (a) register insolvency professional agencies, insolvency professionals and information utilities and renew, withdraw, suspend or cancel such registrations;
- (b) specify the minimum eligibility requirements for registration of insolvency professional agencies, insolvency professionals and information utilities;
- (c) levy fee or other charges for the registration of insolvency professional agencies, insolvency professionals and information utilities;
- (d) specify by regulations standards for the functioning of insolvency professional agencies, insolvency professionals and information utilities;
- (e) lay down by regulations the minimum curriculum for the examination of the insolvency professionals for their enrolment as members of the insolvency professional agencies;
- (f) carry out inspections and investigations on insolvency professional agencies, insolvency professionals and information utilities and pass such orders as may be required for compliance of the provisions of this Code and the regulations issued hereunder;
- (g) monitor the performance of insolvency professional agencies, insolvency professionals and information utilities and pass any directions as may be required for compliance of the provisions of this Code and the regulations issued hereunder;
- (h) call for any information and records from the insolvency professional agencies, insolvency professionals and information utilities;



(i) publish such information, data, research studies and other information as may be specified by regulations;

(j) specify by regulations the manner of collecting and storing data by the information utilities and for providing access to such data;

(k) collect and maintain records relating to insolvency and bankruptcy cases and disseminate information relating to such cases;

(l) constitute such committees as may be required including in particular the committees laid down in section 197;

(m) promote transparency and best practices in its governance;

(n) maintain websites and such other universally accessible repositories of electronic information as may be necessary;

(o) enter into memorandum of understanding with any other statutory authorities;

(p) issue necessary guidelines to the insolvency professional agencies, insolvency professionals and information utilities;

(q) specify mechanism for redressal of grievances against insolvency professionals, insolvency professional agencies and information utilities and pass orders relating to complaints filed against the aforesaid for compliance of the provisions of this Code and the regulations issued hereunder;

(r) conduct periodic study, research and audit the functioning and performance of the insolvency professional agencies, insolvency professionals and information utilities at such intervals as may be specified by the Board;

(s) specify mechanisms for issuing regulations, including the conduct of public consultation processes before notification of any regulations;

(t) make regulations and guidelines on matters relating to insolvency and bankruptcy as may be required under this Code, including mechanism for time bound disposal of the assets of the corporate debtor or debtor; and

(u) perform such other functions as may be prescribed.

(2) The Board may make model bye-laws to be adopted by insolvency professional agencies which may provide for—

(a) the minimum standards of professional competence of the members of insolvency professional agencies;

(b) the standards for professional and ethical conduct of the members of insolvency professional agencies;

(c) requirements for enrolment of persons as members of insolvency professional agencies which shall be non-discriminatory;

*Explanation.*—For the purposes of this clause, the term "non-discriminatory" means lack of discrimination on the grounds of religion, caste, gender or place of birth and such other grounds as may be specified;

(d) the manner of granting membership;

(e) setting up of a governing board for internal governance and management of insolvency professional agency in accordance with the regulations specified by the Board;

(f) the information required to be submitted by members including the form and the time for submitting such information;



(g) the specific classes of persons to whom services shall be provided at concessional rates or for no remuneration by members;

(h) the grounds on which penalties may be levied upon the members of insolvency professional agencies and the manner thereof;

(i) a fair and transparent mechanism for redressal of grievances against the members of insolvency professional agencies;

(f) the grounds under which the insolvency professionals may be expelled from the membership of insolvency professional agencies;

(k) the quantum of fee and the manner of collecting fee for inducting persons as its members;

(l) the procedure for enrolment of persons as members of insolvency professional agency;

(m) the manner of conducting examination for enrolment of insolvency professionals;

(n) the manner of monitoring and reviewing the working of insolvency professional who are members;

(o) the duties and other activities to be performed by members;

(p) the manner of conducting disciplinary proceedings against its members and imposing penalties;

(q) the manner of utilising the amount received as penalty imposed against any insolvency professional.

(3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under this Code, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person at any place;

(iv) issuing of commissions for the examination of witnesses or documents.

Constitution of advisory committee, executive committee or other committee.

197. The Board may, for the efficient discharge of its functions, may constitute advisory and executive committees or such other committees, as it may deem fit, consisting of a Chairperson and such other members as may be specified by regulations.

Condonation of delay.

198. Notwithstanding anything contained in this Code, where the Board does not perform any act within the period specified under this Code, the relevant Adjudicating Authority may, for reasons to be recorded in writing, condone the delay.

### CHAPTER III

#### INSOLVENCY PROFESSIONAL AGENCIES

No person to function as insolvency professional agency without valid certificate of registration.

199. Save as otherwise provided in this Code, no person shall carry on its business as insolvency professional agencies under this Code and enrol insolvency professionals as its members except under and in accordance with a certificate of registration issued in this behalf by the Board.



200. The Board shall have regard to the following principles while registering the insolvency professional agencies under this Code, namely:—

Principles governing registration of insolvency professional agency.

(a) to promote the professional development of and regulation of insolvency professionals;

(b) to promote the services of competent insolvency professionals to cater to the needs of debtors, creditors and such other persons as may be specified;

(c) to promote good professional and ethical conduct amongst insolvency professionals;

(d) to protect the interests of debtors, creditors and such other persons as may be specified;

(e) to promote the growth of insolvency professional agencies for the effective resolution of insolvency and bankruptcy processes under this Code.

201. (1) Every application for registration shall be made to the Board in such form and manner, containing such particulars, and accompanied by such fee, as may be specified by regulations:

Registration of insolvency professional agency.

Provided that every application received by the Board shall be acknowledged within seven days of its receipt.

(2) On receipt of the application under sub-section (1), the Board may, on being satisfied that the application conforms with all requirements specified under sub-section (1), grant a certificate of registration to the applicant or else, reject, by order, such application:

Provided that no order rejecting the application shall be made without giving an opportunity of being heard to the applicant:

Provided further that every order so made shall be communicated to the applicant within a period of fifteen days.

(3) The Board may issue a certificate of registration to the applicant in such form and manner and subject to such terms and conditions as may be specified.

(4) The Board may renew the certificate of registration from time to time in such manner and on payment of such fee as may be specified.

(5) The Board may, by order, suspend or cancel the certificate of registration granted to an insolvency professional agency on any of the following grounds, namely:—

(a) that it has obtained registration by making a false statement or misrepresentation or by any other unlawful means;

(b) that it has failed to comply with the requirements of the regulations made by the Board or bye-laws made by the insolvency professional agency;

(c) that it has contravened any of the provisions of the Act or the rules or the regulations made thereunder;

(d) on any other ground as may be specified by regulations:

Provided that no order shall be made under this sub-section unless the insolvency professional agency concerned has been given a reasonable opportunity of being heard:

Provided further that no such order shall be passed by any member except whole-time members of the Board.

202. Any insolvency professional agency which is aggrieved by the order of the Board made under section 201 may prefer an appeal to the National Company Law Appellate Tribunal in such form, within such period, and in such manner, as may be specified by regulations.

Appeal to National Company Law Appellate Tribunal.



Governing Board of insolvency professional agency.

**203.** The Board may, for the purposes of ensuring that every insolvency professional agency takes into account the objectives sought to be achieved under this Code, make regulations to specify—

- (a) the setting up of a governing board of an insolvency professional agency;
- (b) the minimum number of independent members to be on the governing board of the insolvency professional agency; and
- (c) the number of the insolvency professionals being its members who shall be on the governing board of the insolvency professional agency.

Functions of insolvency professional agencies.

**204.** An insolvency professional agency shall perform the following functions, namely:—

- (a) grant membership to persons who fulfil all requirements set out in its bye-laws on payment of membership fee;
- (b) lay down standards of professional conduct for its members;
- (c) monitor the performance of its members;
- (d) safeguard the rights, privileges and interests of insolvency professionals who are its members;
- (e) suspend or cancel the membership of insolvency professionals who are its members on the grounds set out in its bye-laws;
- (f) redress the grievances of consumers against insolvency professionals who are its members; and
- (g) publish information about its functions, list of its members, performance of its members and such other information as may be specified by regulations.

Insolvency professional agencies to make bye-laws.

**205.** Subject to the provisions of this Code and any rules or regulations made thereunder and after obtaining the approval of the Board, every insolvency professional agency shall make bye-laws consistent with the model bye-laws specified by the Board under sub-section (2) of section 196.

#### CHAPTER IV

##### INSOLVENCY PROFESSIONALS

Enrolled and registered persons to act as insolvency professionals.

**206.** No person shall render his services as insolvency professional under this Code without being enrolled as a member of an insolvency professional agency and registered with the Board.

Registration of insolvency professionals.

**207. (1)** Every insolvency professional shall, after obtaining the membership of any insolvency professional agency, register himself with the Board within such time, in such manner and on payment of such fee, as may be specified by regulations.

**(2)** The Board may specify the categories of professionals or persons possessing such qualifications and experience in the field of finance, law, management, insolvency or such other field, as it deems fit.

Functions and obligations of insolvency professionals.

**208. (1)** Where any insolvency resolution, fresh start, liquidation or bankruptcy process has been initiated, it shall be the function of an insolvency professional to take such actions as may be necessary, in the following matters, namely:—

- (a) a fresh start order process under Chapter II of Part III;
- (b) individual insolvency resolution process under Chapter III of Part III;



- (c) corporate insolvency resolution process under Chapter II of Part II;
  - (d) individual bankruptcy process under Chapter IV of Part III; and
  - (e) liquidation of a corporate debtor firm under Chapter III of Part II.
- (2) Every insolvency professional shall abide by the following code of conduct:—
- (a) to take reasonable care and diligence while performing his duties;
  - (b) to comply with all requirements and terms and conditions specified in the bye-laws of the insolvency professional agency of which he is a member;
  - (c) to allow the insolvency professional agency to inspect his records;
  - (d) to submit a copy of the records of every proceeding before the Adjudicating Authority to the Board as well as to the insolvency professional agency of which he is a member; and
  - (e) to perform his functions in such manner and subject to such conditions as may be specified.

## CHAPTER V

## INFORMATION UTILITIES

209. Save as otherwise provided in this Code, no person shall carry on its business as information utility under this Code without a certificate of registration issued in that behalf by the Board.

No person to function as information utility without certificate of registration.

210. (1) Every application for registration shall be made to the Board in such form and manner, containing such particulars, and accompanied by such fee, as may be specified by regulations:

Registration of information utility.

Provided that every application received by the Board shall be acknowledged within seven days of its receipt.

(2) On receipt of the application under sub-section (1), the Board may, on being satisfied that the application conforms to all requirements specified under sub-section (1), grant a certificate of registration to the applicant or else, reject, by order, such application.

(3) The Board may issue a certificate of registration to the applicant in such form and manner and subject to such terms and conditions as may be specified.

(4) The Board may renew the certificate of registration from time to time in such manner and on payment of such fee as may be specified by regulations.

(5) The Board may, by order, suspend or cancel the certificate of registration granted to an information utility on any of the following grounds, namely:—

(a) that it has obtained registration by making a false statement or misrepresentation or any other unlawful means;

(b) that it has failed to comply with the requirements of the regulations made by the Board;

(c) that it has contravened any of the provisions of the Act or the rules or the regulations made thereunder;

(d) on any other ground as may be specified by regulations:

Provided that no order shall be made under this sub-section unless the information utility concerned has been given a reasonable opportunity of being heard:



Provided further that no such order shall be passed by any member except whole-time members of the Board.

Appeal to  
National  
Company Law  
Appellate  
Tribunal.

211. Any information utility which is aggrieved by the order of the Board made under section 210 may prefer an appeal to the National Company Law Appellate Tribunal in such form, within such period, and in such manner, as may be specified by regulations.

Governing  
Board of  
information  
utility.

212. The Board may, for ensuring that an information utility takes into account the objectives sought to be achieved under this Code, require every information utility to set up a governing board, with such number of independent members, as may be specified by regulations.

Core services,  
etc., of  
information  
utilities.

213. An information utility shall provide such services as may be specified including core services to any person if such person complies with the terms and conditions as may be specified by regulations.

Obligations of  
information  
utility.

214. For the purposes of providing core services to any person, every information utility shall—

(a) create and store financial information in a universally accessible format;

(b) accept electronic submissions of financial information from persons who are under obligations to submit financial information under sub-section (1) of section 215, in such form and manner as may be specified by regulations;

(c) accept, in specified form and manner, electronic submissions of financial information from persons who intend to submit such information;

(d) meet such minimum service quality standards as may be specified by regulations;

(e) get the information received from various persons authenticated by all concerned parties before storing such information;

(f) provide access to the financial information stored by it to any person who intends to access such information in such manner as may be specified by regulations;

(g) publish such statistical information as may be specified by regulations;

(h) have inter-operability with other information utilities.

Procedure for  
submission,  
etc., of  
financial  
information.

215. (1) Any person who intends to submit financial information to the information utility or access the information from the information utility shall pay such fee and submit information in such form and manner as may be specified by regulations.

(2) A financial creditor shall submit financial information and information relating to assets in relation to which any security interest has been created, in such form and manner as may be specified by regulations.

(3) An operational creditor may submit financial information to the information utility in such form and manner as may be specified.

Rights and  
obligations of  
persons  
submitting  
financial  
information.

216. (1) A person who intends to update or modify or rectify errors in the financial information submitted under section 215, he may make an application to the information utility for such purpose stating reasons therefor, in such manner and within such time, as may be specified.



(2) A person who submits financial information to an information utility shall not provide such information to any other person, except to such extent, under such circumstances, and in such manner, as may be specified.

## CHAPTER VI

## INSPECTION AND INVESTIGATION

217. Any person aggrieved by the functioning of an insolvency professional agency or insolvency professional or an information utility may file a complaint to the Board in such form, within such time and in such manner as may be specified.

Complaints  
against  
insolvency  
professional  
agency or its  
member or  
information  
utility.

218. (1) Where the Board, on receipt of a complaint under section 217 or has reasonable grounds to believe that any insolvency professional agency or insolvency professional or an information utility has contravened any of the provisions of the Code or the rules or regulations made or directions issued by the Board thereunder, it may, at any time by an order in writing, direct any person or persons to act as an investigating authority to conduct an inspection or investigation of the insolvency professional agency or insolvency professional or an information utility.

Investigation  
of insolvency  
professional  
agency or its  
member or  
information  
utility.

(2) The inspection or investigation carried out under sub-section (1) of this section shall be conducted within such time and in such manner as may be specified by regulations.

(3) The Investigating Authority may, in the course of such inspection or investigation, require any other person who is likely to have any relevant document, record or information to furnish the same, and such person shall be bound to furnish such document, record or information:

Provided that the Investigating Authority shall provide detailed reasons to such person before requiring him to furnish such document, record or information.

(4) The Investigating Authority may, in the course of its inspection or investigation, enter any building or place where they may have reasons to believe that any such document, record or information relating to the subject-matter of the inquiry may be found and may seize any such document, record or information or take extracts or copies therefrom, subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, insofar as they may be applicable.

(5) The Investigating Authority shall keep in its custody the books, registers, other documents and records seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the concerned person from whose custody or power they were seized:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(6) A detailed report of inspection or investigation shall be submitted to the Board by the Investigating Authority.

219. The Board may, upon completion of an inspection or investigation under section 218, issue a show cause notice to such insolvency professional agency or insolvency professional or information utility, and carry out inspection of such insolvency professional agency or insolvency professional or information utility in such manner, giving such time for giving reply, as may be specified by regulations.

Show cause  
notice to  
insolvency  
professional  
agency or its  
member or  
information  
utility.



Appointment  
of disciplinary  
committee.

**220. (1)** The Board shall constitute a disciplinary committee to consider the reports of the investigating Authority submitted under sub-section (6) of section 218:

Provided that the members of the disciplinary committee shall consist of whole-time members of the Board only.

(2) On the examination of the report of the Investigating Authority, if the disciplinary committee is satisfied that sufficient cause exists, it may impose penalty as specified in sub-section (3) or suspend or cancel the registration of the insolvency professional or, suspend or cancel the registration of insolvency professional agency or information utility as the case may be.

(3) Where any insolvency professional agency or insolvency professional or an information utility has contravened any provision of this Code or rules or regulations made thereunder, the disciplinary committee may impose penalty which shall be—

(i) three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention; or

(ii) three times the amount of the unlawful gain made on account of such contravention,

whichever is higher:

Provided that where such loss or unlawful gain is not quantifiable, the total amount of the penalty imposed shall not exceed more than one crore rupees.

(4) Notwithstanding anything contained in sub-section (3), the Board may direct any person who has made unlawful gain or averted loss by indulging in any activity in contravention of this Code, or the rules or regulations made thereunder, to disgorge an amount equivalent to such unlawful gain or aversion of loss.

(5) The Board may take such action as may be required to provide restitution to the person who suffered loss on account of any contravention from the amount so disgorged, if the person who suffered such loss is identifiable and the loss so suffered is directly attributable to such person.

(6) The Board may make regulations to specify—

(a) the procedure for claiming restitution under sub-section (5);

(b) the period within which such restitution may be claimed; and

(c) the manner in which restitution of amount may be made.

## CHAPTER VII

### FINANCE, ACCOUNTS AND AUDIT

Grants by  
Central  
Government.

**221.** The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilised for the purposes of this Code.

Board's Fund.

**222. (1)** There shall be constituted a Fund to be called the Fund of the Insolvency and Bankruptcy Board and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Code;

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government;

(c) such other funds as may be specified by the Board or prescribed by the Central Government.

(2) The Fund shall be applied for meeting—



- (a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;
- (b) the expenses of the Board in the discharge of its functions under section 196;
- (c) the expenses on objects and for purposes authorised by this Code;
- (d) such other purposes as may be prescribed.

223. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and  
audit.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

#### PART V

##### MISCELLANEOUS

224. (1) There shall be formed a Fund to be called the Insolvency and Bankruptcy Fund (hereafter in this section referred to as the "Fund") for the purposes of insolvency resolution, liquidation and bankruptcy of persons under the Code.

Insolvency  
and  
Bankruptcy  
Fund.

(2) There shall be credited to the Fund the following amounts, namely—

- (a) the grants made by the Central Government for the purposes of the Fund;
- (b) the amount deposited by persons as contribution to the Fund;
- (c) the amount received in the Fund from any other source; and
- (d) the interest or other income received out of the investment made from the Fund.

(3) A person who has contributed any amount to the Fund may, in the event of proceedings initiated in respect of such person under this Code before an Adjudicating Authority, make an application to such Adjudicating Authority for withdrawal of funds not exceeding the amount contributed by it, for making payments to workmen, protecting the assets of such persons, meeting the incidental costs during the proceedings or such other purposes as may be prescribed.

(4) The Central Government shall, by notification, appoint an administrator to administer the fund in such manner as may be prescribed.

225. (1) Without prejudice to the foregoing provisions of this Code, the Board shall, in exercise of its powers or the performance of its functions under this Code, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Power of  
Central  
Government to  
issue  
directions.



Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.

Power of  
Central  
Government to  
supersede  
Board.

226. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Code; or

(b) that the Board has persistently not complied with any direction issued by the Central Government under this Code or in the discharge of the functions and duties imposed on it by or under the provisions of this Code and as a result of such non-compliance the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—(a) all the members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this Code, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and (c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Power of  
Central  
Government to  
notify  
financial  
service  
providers, etc.

227. Notwithstanding anything to the contrary examined in this Code or any other law for the time being in force, the Central Government may, if it considers necessary, in consultation with the appropriate financial sector regulators, notify financial service providers or categories of financial service providers for the purpose of their insolvency and liquidation proceedings, which may be conducted under this Code, in such manner as may be prescribed.

Budget.

228. The Board shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the Central Government.

Annual  
report.

229. (1) The Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.



230. The Board may, by general or special order in writing delegate to any member or officer of the Board subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Code (except the powers under section 240 as it may deem necessary.

Delegation.

231. No civil court shall have jurisdiction in respect of any matter in which the Adjudicating Authority is empowered by, or under, this Code to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by such Adjudicating Authority under this Code.

Bar of jurisdiction.

232. The Chairperson, Members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Code, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, officers and employees of Board to the public servants.

233. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government, or the Chairperson, Member, officer or other employee of the Board or an insolvency professional or liquidator for anything which is done or intended to be done in good faith under this Code or the rules or regulations made thereunder.

Protection of action taken in good faith.

234. (1) The Central Government may enter into an agreement with the Government of any country outside India for enforcing the provisions of this Code.

Agreements with foreign countries.

(2) The Central Government may, by notification in the Official Gazette, direct that the application of provisions of this Code in relation to assets or property of corporate debtor or debtor, including a personal guarantor of a corporate debtor, as the case may be, situated at any place in a country outside India with which reciprocal arrangements have been made, shall be subject to such conditions as may be specified.

235. (1) Notwithstanding anything contained in this Code or any law for the time being in force if, in the course of insolvency resolution process, or liquidation or bankruptcy proceedings, as the case may be, under this Code, the resolution professional, liquidator or bankruptcy trustee, as the case may be, is of the opinion that assets of the corporate debtor or debtor, including a personal guarantor of a corporate debtor, are situated in a country outside India with which reciprocal arrangements have been made under section 234, he may make an application to the Adjudicating Authority that evidence or action relating to such assets is required in connection with such process or proceeding.

Letter of request to a country outside India in certain cases.

(2) The Adjudicating Authority on receipt of an application under sub-section (1) and, on being satisfied that evidence or action relating to assets under sub-section (1) is required in connection with insolvency resolution process or liquidation or bankruptcy proceeding, may issue a letter of request to a court or an authority of such country competent to deal with such request.

236. (1) Notwithstanding anything in the Code of Criminal Procedure, 1973, offences under this Code shall be tried by the Special Court established under Chapter XXVIII of the Companies Act, 2013.

Trial of offences by Special Court.

(2) No Court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Board or the Central Government or any person authorised by the Central Government in this behalf.

(3) The provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in case of a complaint under sub-section (2), the presence of the person authorised by the



Central Government or the Board before the Court trying the offences shall not be necessary unless the Court requires his personal attendance at the trial.

Appeal and  
revision.

237. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court. 2 of 1974.

Provisions of  
this Code to  
override other  
laws.

238. The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

Power to make  
rules.

239. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Code.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for any of the following matters, namely:—

(a) any other instrument which shall be a financial product under clause (15) of section 3;

(b) other accounting standards which shall be a financial debt under clause (d) of sub-section (8) of section 5;

(c) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by financial creditor under sub-section (2) of section 7;

(d) the form and manner in which demand notice may be made and the manner of delivery thereof to the corporate debtor under sub-section (1) of section 8;

(e) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by operational creditor under sub-section (2) of section 9;

(f) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by corporate applicant under sub-section (2) of section 10;

(g) the persons who shall be relative under clause (ii) of the *Explanation* to sub-section (1) of section 79;

(h) the value of unencumbered single dwelling unit owned by the debtor under clause (e) of sub-section (13) of section 79;

(i) the value under clause (c), and any other debt under clause (f), of sub-section (14) of section 79;

(j) the form, the manner and the fee for making application for fresh start order under sub-section (3) of section 81;

(k) the particulars of the debtor's personal details under clause (e) of sub-section (3) of section 81;

(l) the information and documents to support application under sub-section (3) of section 86;

(m) the form, the manner and the fee for making application for initiating the insolvency resolution process by the debtor under sub-section (6) of section 94;

(n) the form, the manner and the fee for making application for initiating the insolvency resolution process by the creditor under sub-section (6) of section 95;



(o) the particulars to be provided by the creditor to the resolution professional under sub-section (2) of section 103;

(p) the form and the manner for making application for bankruptcy by the debtor under clause (b) of sub-section (1) of section 122;

(q) the form and the manner of the statement of affairs of the debtor under sub-section (3) of section 122;

(r) the other information under clause (d) of sub-section (1) of section 123;

(s) the form, the manner and the fee for making application for bankruptcy under sub-section (6) of section 123;

(t) the form and the manner in which statement of financial position shall be submitted under sub-section (2) of section 129;

(u) the matters and the details which shall be included in the public notice under sub-section (2) of section 130;

(v) the matters and the details which shall be included in the notice to the creditors under sub-section (3) of section 130;

(w) the manner of sending details of the claims to the bankruptcy trustee and other information under sub-sections (1) and (2) of section 131;

(x) the value of financial or commercial transaction under clause (d) of sub-section (1) of section 141;

(y) the other things to be done by a bankrupt to assist bankruptcy trustee in carrying out his functions under clause (d) of sub-section (1) of section 150;

(z) the manner of dealing with the surplus under sub-section (4) of section 170;

(za) the form and the manner of proof of debt under clause (c) of sub-section (2) of section 171;

(zb) the manner of receiving dividends under sub-section (7) of section 171;

(zc) the particulars which the notice shall contain under sub-section (2) of section 176;

(zd) the salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members of the Board under sub-section (5) of section 189;

(ze) the other functions of the Board under clause (u) of sub-section (1) of section 196;

(zf) the other funds under clause (c) of sub-section (1) of section 222;

(zg) the other purposes for which the fund shall be applied under clause (d) of sub-section (2) of section 222;

(zh) the form in which annual statement of accounts shall be prepared under sub-section (1) of section 223;

(zi) the purpose for which application for withdrawal of funds may be made under sub-section (3) of section 224;

(zj) the manner of administering the fund under sub-section (4) of section 224;

(zk) the manner of conducting insolvency and liquidation proceedings under section 227;

(zl) the form and the time for preparing budget by the Board under section 228;



(zm) the form and the time for preparing annual report under sub-section (1) of section 229;

(zn) the time up to which a person appointed to any office shall continue to hold such office under clause (vi) of sub-section (2) of section 243.

Power to make  
regulations.

240. (1) The Board may, by notification, make regulations consistent with this Code and the rules made thereunder, to carry out the provisions of this Code.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the form and the manner of accepting electronic submission of financial information under sub-clause (a) of clause (9) of section 3;

(b) the persons to whom access to information stored with the information utility may be provided under sub-clause (d) of clause (9) of section 3;

(c) the other information under sub-clause (f) of clause (13) of section 3;

(d) the other costs under clause (e) of sub-section (13) of section 5;

(e) the cost incurred by the liquidator during the period of liquidation which shall be liquidation cost under sub-section (16) of section 5;

(f) the other record or evidence of default under clause (a), and any other information under clause (c), of sub-section (3) of section 7;

(g) the other information under clause (d) of sub-section (3) of section 9;

(h) the period under clause (a) of sub-section (3) of section 10;

(i) the supply of essential goods or services to the corporate debtor under sub-section (2) of section 14;

(j) the manner of making public announcement under sub-section (2) of section 15;

(k) the manner of taking action and the restrictions thereof under clause (b) of sub-section (2) of section 17;

(l) the other persons under clause (d) of sub-section (2) of section 17;

(m) the other matters under clause (d) of sub-section (2) of section 17;

(n) the other matters under sub-clause (iv) of clause (a), and the other duties to be performed by the interim resolution professional under clause (g), of section 18;

(o) the persons who shall comprise the committee of creditors, the functions to be exercised such committee and the manner in which functions shall be exercised under the proviso to sub-section (8) of section 21;

(p) the other electronic means by which the members of the committee of creditors may meet under sub-section (1) of section 24;

(q) the manner of assigning voting share to each creditor under sub-section (7) of section 24;

(r) the manner of conducting the meetings of the committee of creditors under sub-section (8) of section 24;

(s) the manner of appointing accountants, lawyers and other advisors under clause (d) of sub-section (2) of section 25;

(t) the other actions under clause (k) of sub-section (2) of section 25;

(u) the form and the manner in which an information memorandum shall be prepared by the resolution professional sub-section (1) of section 29;



(v) the other matter pertaining to the corporate debtor under the *Explanation* to sub-section (2) of section 29;

(w) the manner of making payment of insolvency resolution process costs under clause (a), the manner of repayment of debts of operational creditors under clause (b), and the other requirements to which a resolution plan shall conform to under clause (d), of sub-section (2) of section 30;

(x) the fee for the conduct of the liquidation proceedings and proportion to the value of the liquidation estate assets under sub-section (8) of section 34;

(y) the manner of evaluating the assets and property of the corporate debtor under clause (c), the manner of selling property in parcels under clause (f), the manner of reporting progress of the liquidation process under clause (n), and the other functions to be performed under clause (o), of sub-section (1) of section 35;

(z) the manner of making the records available to other stakeholders under sub-section (2) of section 35;

(za) the other means under clause (a) of sub-section (3) of section 36;

(zb) the other assets under clause (e) of sub-section (4) of section 36;

(zc) the other source under clause (g) of sub-section (1) of section 37;

(zd) the manner of providing financial information relating to the corporate debtor under sub-section (2) of section 37;

(ze) the form, the manner and the supporting documents to be submitted by operational creditor to prove the claim under sub-section (3) of section 38;

(zf) the time within which the liquidator shall verify the claims under sub-section (1) of section 39;

(zg) the manner of determining the value of claims under section 41;

(zh) the manner of relinquishing security interest to the liquidation estate and receiving proceeds from the sale of assets by the liquidator under clause (a), and the manner of realising security interest under clause (b) of sub-section (1) of section 52;

(zi) the other means under clause (b) of sub-section (3) of section 52;

(zj) the manner in which secured creditor shall be paid by the liquidator under sub-section (9) of section 52;

(zk) the period and the manner of distribution of proceeds of sale under sub-section (1) of section 53;

(zl) the other means under clause (a) and the other information under clause (b) of section 57;

(zm) the conditions and procedural requirements under sub-section (2) of section 59;

(zn) the details and the documents required to be submitted under sub-section (7) of section 95;

(zo) the other matters under clause (c) of sub-section (3) of section 105;

(zp) the manner and form of proxy voting under sub-section (4) of section 107;

(zq) the manner of assigning voting share to creditor under sub-section (2) of section 109;

(zr) the manner and form of proxy voting under sub-section (3) of section 133;

(zs) the fee to be charged under sub-section (1) of section 144;



(zt) the appointment of other officers and employees under sub-section (2), and the salaries and allowances payable to, and other terms and conditions of service of, such officers and employees of the Board under sub-section (3), of section 194;

(zu) the other information under clause (i) of sub-section (1) of section 196;

(zv) the intervals in which the periodic study, research and audit of the functioning and performance of the insolvency professional agencies, insolvency professionals and information utilities under clause (r), and mechanism for disposal of assets under clause (t), of sub-section (1) of section 196;

(zw) the place and the time for discovery and production of books of account and other documents under clause (i) of sub-section (3) of section 196;

(zx) the other committees to be constituted by the Board and the other members of such committees under section 197;

(zy) the other persons under clause (b) and clause (d) of section 200;

(zz) the form and the manner of application for registration, the particulars to be contained therein and the fee it shall accompany under sub-section (1) of section 201;

(zza) the form and manner of issuing a certificate of registration and the terms and conditions thereof, under sub-section (3) of section 201;

(zzb) the manner of renewal of the certificate of registration and the fee therefor, under sub-section (4) of section 201;

(zzc) the other ground under clause (d) of sub-section (5) of section 201;

(zsd) the form of appeal to the National Company Law Appellate Tribunal, the period within which it shall be filed under section 202;

(zze) the other information under clause (g) of section 204;

(zzf) the other grounds under *Explanation* to section 196;

(zzg) the setting up of a governing board for its internal governance and management under clause (e), the curriculum under clause (i), the manner of conducting examination under clause (m), of section 196;

(zzh) the time within which, the manner in which, and the fee for registration of insolvency professional under sub-section (1) of section 207;

(zzi) the categories of professionals or persons, the qualifications and experience and the fields under sub-section (2) of section 207;

(zzj) the manner and the conditions subject to which the insolvency professional shall perform his function under clause (f) of sub-section (2) of section 208;

(zzk) the form and manner in which, and the fee for registration of information utility under sub-section (1) of section 210;

(zsl) the form and manner for issuing certificate of registration and the terms and conditions thereof, under sub-section (3) of section 210;

(zsm) the manner of renewal of the certificate of registration and the fee therefor, under sub-section (4) of section 210;

(zsn) the other ground under clause (d) of sub-section (5) of section 210;

(zso) the form, the period and the manner of filling appeal to the National Company Law Appellate Tribunal under section 211;

(zsp) the number of independent members under section 212;

(zzq) the services to be provided by information utility and the terms and conditions under section 213;



(zzr) the form and manner of accepting electronic submissions of financial information under clause (b) and clause (c) of section 214;

(zzs) the minimum service quality standards under clause (d) of section 214;

(zzt) the information to be accessed and the manner of accessing such information under clause (f) of section 214;

(zzu) the statistical information to be published under clause (g) of section 214;

(zzv) the form, the fee and the manner for submitting or accessing information under sub-section (1) of section 215;

(zzw) the form and manner for submitting financial information and information relating to assets under sub-section (2) of section 215;

(zzx) the manner and the time within which financial information may be updated or modified or rectified under section 216;

(zzy) the form, manner and time of filing complaint under section 217;

(zzz) the time and manner of carrying out inspection or investigation under sub-section (2) of section 218;

(zzza) the manner of carrying out inspection of insolvency professional agency or insolvency professional or information utility and the time for giving reply under section 219;

(zzzb) the procedure for claiming restitution under sub-section (6), the period within which such restitution may be claimed and the manner in which restitution of amount may be made under sub-section (7) of section 220;

(zzzc) the other funds of clause (c) of sub-section (1) of section 222.

241. Every rule and every regulation made under this Code shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

242. (1) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Code as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Code.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

3 of 1909.  
5 of 1920.

243. (1) The Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920 are hereby repealed.

Repeal of certain enactments and savings.

(2) Notwithstanding the repeal under sub-sections (1),—

(i) all proceedings pending under and relating to the Presidency Towns Insolvency Act 1909, and the Provincial Insolvency Act 1920 immediately before the commencement of this Code shall continue to be governed under the aforementioned Acts and be



heard and disposed of by the concerned courts or tribunals, as if the aforementioned Acts have not been repealed;

(ii) any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Code, continue to be in force, and shall have effect as if the aforementioned Acts have not been repealed;

(iii) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall be deemed valid;

(iv) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;

(v) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Code before any court or tribunal shall, subject to the provisions of this Code, continue to be heard and disposed of by the concerned court or tribunal;

(vi) any person appointed to any office under or by virtue of any repealed enactment shall continue to hold such office until such time as may be prescribed; and

(vii) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the repealed enactments or provisions of the enactments mentioned in the Schedule.

10 of 1897.

Transitional provisions.

244. (1) Until the Board is constituted or a financial sector regulator is designated under section 195, as the case may be, the powers and functions of the Board or such designated financial sector regulator, including its power to make regulations, shall be exercised by the Central Government.

(2) Without prejudice to the generality of the power under sub-section (1), the Central Government may by regulations provide for the following matters:—

(a) recognition of persons, categories of professionals and persons having such qualifications and experience in the field of finance, law, management or insolvency as it deems necessary, as insolvency professionals and insolvency professional agencies under this Code;

(b) recognition of persons with technological, statistical, and data protection capability as it deems necessary, as information utilities under this Code; and

(c) conduct of the corporate insolvency resolution process, insolvency resolution process, liquidation process, fresh start process and bankruptcy process under this Code.

Amendments of Act 9 of 1932.

245. The Indian Partnership Act, 1932 shall be amended in the manner specified in the First Schedule.



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|---|-------------------------------|
| 246. The Central Excise Act, 1944 shall be amended in the manner specified in the Second Schedule.  | Amendments of Act 1 of 1944.  |
| 247. The Income-tax Act, 1961 shall be amended in the manner specified in the Third Schedule.   | Amendments of Act 43 of 1961. |
| 248. The Customs Act, 1962 shall be amended in the manner specified in the Fourth Schedule.   | Amendments of Act 52 of 1962. |
| 249. The Recovery of Debts due to Banks and Financial Institutions Act, 1993 shall be amended in the manner specified in the Fifth Schedule.                                    | Amendments of Act 51 of 1993. |
| 250. The Finance Act, 1994 shall be amended in the manner specified in the Sixth Schedule.  | Amendments of Act 32 of 1994. |
| 251. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 shall be amended in the manner specified in the Seventh Schedule. | Amendments of Act 54 of 2002. |
| 252. The Sick Industrial Companies (Special Provisions) Repeal Act, 2003 shall be amended in the manner specified in the Eighth Schedule.                                       | Amendments of Act 1 of 2004.  |
| 253. The Payment and Settlement Systems Act, 2007 shall be amended in the manner specified in the Ninth Schedule.   | Amendments of Act 51 of 2007. |
| 254. The Limited Liability Partnership Act, 2008 shall be amended in the manner specified in the Tenth Schedule.  | Amendments of Act 6 of 2009.  |
| 255. The Companies Act, 2013 shall be amended in the manner specified in the Eleventh Schedule.   | Amendments of Act 18 of 2013. |

#### THE FIRST SCHEDULE

(See section 245)

#### AMENDMENT TO THE INDIAN PARTNERSHIP ACT, 1932

(9 of 1932)

1. In section 41, clause (a) shall be omitted.

#### THE SECOND SCHEDULE

(See section 246)

#### AMENDMENT TO THE CENTRAL EXCISE ACT, 1944

(1 of 1944)

1. In section 11E, for the words, figures and brackets "and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002)"; the words, figures and brackets "the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002) and the Insolvency and Bankruptcy Code, 2016" shall be substituted.



## THE THIRD SCHEDULE

(See section 247)

## AMENDMENT TO THE INCOME-TAX ACT, 1961

(43 OF 1961)

In sub-section (6) of section 178, after the words "for the time being in force", the words and figures "except the provisions of the Insolvency and Bankruptcy Code, 2016" shall be inserted.

## THE FOURTH SCHEDULE

(See section 248)

## AMENDMENT TO THE CUSTOMS ACT, 1962

(52 OF 1962)

In section 142A, for the words and figures "and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002)", the words and figures "the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 and the Insolvency and Bankruptcy Code, 2016" shall be substituted.

## THE FIFTH SCHEDULE

(See section 249)

## AMENDMENT TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

(51 OF 1993)

1. In the long title, after the words "financial institutions", the words ", insolvency resolution and bankruptcy of individuals and partnership firms" shall be inserted, namely:—

2. In section 1,—

(a) in sub-section (1), for the words "Due to Banks and Financial Institutions" the words "and Bankruptcy" shall be substituted;

(b) in sub-section (4), for the words "The provision of this Code", the words "Save as otherwise provided, the provisions of this Code", shall be substituted.

3. In section 3, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Central Government shall by notification establish such number of Debts Recovery Tribunals and its benches as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under the Insolvency and Bankruptcy Code, 2016."

4. In section 8, after sub-section (1), the following section shall be inserted, namely:—

"(1A) The Central Government shall, by notification, establish such number of Debt Recovery Appellate Tribunals to exercise jurisdiction, powers and authority to entertain appeal against the order made by the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, 2016."

5. In section 17,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Without prejudice to sub-section (1),—

(a) the Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain and decide applications under Part III of Insolvency and Bankruptcy Code, 2016.



(b) the Tribunal shall have circuit sittings in all district headquarters."

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Without prejudice to sub-section (2), the Appellate Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain appeals against the order made by the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, 2016."

6. After section 19, the following section shall be inserted, namely:—

"19A. The application made to Tribunal for exercising the powers of the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016 shall be dealt with in the manner as provided under that Code."

7. In section 20, in sub-section (4), after the word, brackets and figure "sub-section (1)", the words, brackets and figures "or under sub-section (1) of section 181 of the Insolvency and Bankruptcy Code, 2016" shall be inserted.

#### THE SIXTH SCHEDULE

(See section 250)

AMENDMENT TO THE FINANCE ACT, 1994

(32 OF 1994)

In section 88, for the words and figures "and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002)", the words and figures "the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 and the Insolvency and Bankruptcy Code, 2016" shall be substituted.

#### THE SEVENTH SCHEDULE

(See section 251)

AMENDMENT TO THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002

(54 OF 2002)

In section 13, in sub-section (9), for the words "In the case of", the words and figures "Subject to the provisions of the Insolvency and Bankruptcy Code, 2016, in the case of" shall be substituted.

#### THE EIGHTH SCHEDULE

(See section 252)

AMENDMENT TO THE SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) REPEAL ACT, 2003

(1 OF 2004)

In section 4, for sub-clause (b), the following sub-clause shall be substituted, namely—

"(b) On such date as may be notified by the Central Government in this behalf, any appeal preferred to the Appellate Authority or any reference made or inquiry pending to or before the Board or any proceeding of whatever nature pending before the Appellate Authority or the Board under the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) shall stand abated:

Provided that a company in respect of which such appeal or reference or inquiry stands abated under this clause may make reference to the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 within one hundred and eighty days from



the commencement of the Insolvency and Bankruptcy Code, 2016 in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016:

Provided further that no fees shall be payable for making such reference under Insolvency and Bankruptcy Code, 2016 by a company whose appeal or reference or inquiry stands abated under this clause."

#### THE NINTH SCHEDULE

(See section 253)

#### AMENDMENT TO THE PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007

(51 OF 2007)

1. In section 23, in sub-sections (4), (5) and (6), after the words and figures "the Banking Regulation Act, 1949 (10 of 1949)" "the Companies Act, 2013 (18 of 2013)", the words and figures "or the Insolvency and Bankruptcy Code, 2016" shall be inserted.

2. In section 23A, in sub-section (3), after the words and figures "the Companies Act, 2013", the words and figures "or the Insolvency and Bankruptcy Code, 2016" shall be inserted.

#### THE TENTH SCHEDULE

(See section 254)

#### AMENDMENT TO THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

(6 OF 2009)

In section 64, Clause (c) shall be omitted.

#### THE ELEVENTH SCHEDULE

(See section 255)

#### AMENDMENTS TO THE COMPANIES ACT, 2013

(18 OF 2013)

1. In section 2,—

(a) for clause (23), the following clause shall be substituted, namely:—

"(23) "Company Liquidator" means a person appointed by the Tribunal as the Company Liquidator in accordance with the provisions of section 275 for the winding up of a company under this Act;";

(b) after clause (94), the following clause shall be inserted, namely:—

"(94A) "winding up" means winding up under this Act or liquidation under the Insolvency and Bankruptcy Code, 2016, as applicable."

2. In section 8, in sub-section (9), for the words "the Rehabilitation and Insolvency Fund formed under section 269", the words "Insolvency and Bankruptcy Fund formed under section 224 of the Insolvency and Bankruptcy Code, 2016" shall be substituted.

3. In section 66, in sub-section (8), for the words, brackets and figures "is unable, within the meaning of sub-section (2) of section 271, to pay the amount of his debt or claim," the words and figures "commits a default, within the meaning of section 6 of the Insolvency and Bankruptcy Code, 2016, in respect of the amount of his debt or claim," shall be substituted.

4. In sections 77, in sub-section (3), after the words "the liquidator", the words and figures "appointed under this Act or the Insolvency and Bankruptcy Code, 2016, as the case may be," shall be inserted.



5. In section 117 in sub-section (3), in clause (f), for the word and figures "section 304", the words and figures "section 59 of the Insolvency and Bankruptcy Code, 2016" shall be substituted.

6. In section 224, in sub-section (2), after the words "wound up under this Act", the words and figures "or under the Insolvency and Bankruptcy Code, 2016" shall be inserted.

6A. In section 230,—

(a) in sub-section (1), after the word "liquidator", the words "appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be," shall be inserted;

(b) in sub-section (6), after the word "on the liquidator", the words "appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be," shall be inserted;

7. In section 249, in sub-section (1), for clause (e), the following clause shall be substituted, namely:—

"(e) is being wound up under Chapter XX of this Act or under the Insolvency and Bankruptcy Code, 2016."

8. Sections 253 to 269 shall be omitted.

9. For section 270, the following section shall be substituted, namely:—

"270. The provisions of Part I shall apply to the winding up of a company by the Tribunal under this Act."

Winding up by  
Tribunal.

10. For section 271, the following section shall be substituted, namely:—

"271. A company may, on a petition under section 272, be wound up by the Tribunal,—

Circumstances  
in which  
company may  
be wound up  
by Tribunal.

(a) if the company has, by special resolution, resolved that the company be wound up by the Tribunal;

(b) if the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;

(c) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the company have been conducted in a fraudulent manner or the company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the company be wound up;

(d) if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or

(e) if the Tribunal is of the opinion that it is just and equitable that the company should be wound up."

12. For section 272, the following section shall be substituted, namely:—

"272. (1) Subject to the provisions of this section, a petition to the Tribunal for the winding up of a company shall be presented by—

Petition for  
winding up.



- (a) the company;
- (b) any contributory or contributories;
- (c) all or any of the persons specified in clauses (a) and (b);
- (d) the Registrar;
- (e) any person authorised by the Central Government in that behalf; or
- (f) in a case falling under clause (b) of section 271, by the Central Government or a State Government.

(2) A contributory shall be entitled to present a petition for the winding up of a company, notwithstanding that he may be the holder of fully paid-up shares, or that the company may have no assets at all or may have no surplus assets left for distribution among the shareholders after the satisfaction of its liabilities, and shares in respect of which he is a contributory or some of them were either originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months immediately before the commencement of the winding up or have devolved on him through the death of a former holder.

(3) The Registrar shall be entitled to present a petition for winding up under section 271, except on the grounds specified in clause (a) or clause (e) of that sub-section:

Provided that the Registrar shall obtain the previous sanction of the Central Government to the presentation of a petition:

Provided further that the Central Government shall not accord its sanction unless the company has been given a reasonable opportunity of making representations.

(4) A petition presented by the company for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs in such form and in such manner as may be prescribed.

(5) A copy of the petition made under this section shall also be filed with the Registrar and the Registrar shall, without prejudice to any other provisions, submit his views to the Tribunal within sixty days of receipt of such petition."

13. In section 275,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The provisional liquidator or the Company Liquidator, as the case may, shall be appointed by the Tribunal from amongst the insolvency professionals registered under the Insolvency and Bankruptcy Code, 2016;"

(b) sub-section (4) shall be omitted.

14. For section 280, the following section shall be substituted, namely:—

"280. The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of,—

(a) any suit or proceeding by or against the company;

(b) any claim made by or against the company, including claims by or against any of its branches in India;

(c) any application made under section 233;

(d) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the company,



whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for the winding up of the company is made."

15. Section 289 shall be omitted.

15A. The heading "Part II.—Voluntary winding up" shall be omitted.

16. Sections 304 to 323 shall be omitted.

17. Section 325 shall be omitted.

18. For section 326, the following section shall be substituted, namely:—

"326. (1) In the winding up of a company under this Act, the following debts shall be paid in priority to all other debts:—

Overriding  
preferential  
payments.

(a) workmen's dues; and

(b) where a secured creditor has realised a secured asset, so much of the debts due to such secured creditor as could not be realised by him or the amount of the workmen's portion in his security (if payable under the law), whichever is less, *pari passu* with the workmen's dues:

Provided that in case of the winding up of a company, the sums referred to in sub-clauses (i) and (ii) of clause (b) of the *Explanation*, which are payable for a period of two years preceding the winding up order or such other period as may be prescribed, shall be paid in priority to all other debts (including debts due to secured creditors), within a period of thirty days of sale of assets and shall be subject to such charge over the security of secured creditors as may be prescribed.

(2) The debts payable under the proviso to sub-section (1) shall be paid in full before any payment is made to secured creditors and thereafter debts payable under that sub-section shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.

*Explanation.*—For the purposes of this section, and section 327—

(a) "workmen", in relation to a company, means the employees of the company, being workmen within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947);

(b) "workmen's dues", in relation to a company, means the aggregate of the following sums due from the company to its workmen, namely:—

(i) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947 (14 of 1947);

(ii) all accrued holiday remuneration becoming payable to any workman, or, in the case of his death, to any other person in his right on the termination of his employment before or by the effect of the winding up order or resolution;

(iii) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen's Compensation Act, 1923 (19 of 1923), rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company;



(iv) all sums due to any workman from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the workmen, maintained by the company;

(c) "workmen's portion", in relation to the security of any secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen's dues bears to the aggregate of the amount of workmen's dues and the amount of the debts due to the secured creditors.

#### Illustration

The value of the security of a secured creditor of a company is Rs. 1,00,000. The total amount of the workmen's dues is Rs. 1,00,000. The amount of the debts due from the company to its secured creditors is Rs. 3,00,000. The aggregate of the amount of workmen's dues and the amount of debts due to secured creditors is Rs. 4,00,000. The workmen's portion of the security is, therefore, one-fourth of the value of the security, that is Rs. 25,000."

19. In section 327,—

(a) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) Sections 326 and 327 shall not be applicable in the event of liquidation under the Insolvency and Bankruptcy Code, 2016;"

(b) in the *Explanation*, for clause (c), the following clause shall be substituted, namely:—

"(c) the expression "relevant date" means in the case of a company being wound up by the Tribunal, the date of appointment or first appointment of a provisional liquidator, or if no such appointment was made, the date of the winding up order, unless, in either case, the company had commenced to be wound up voluntarily before that date under the Insolvency and Bankruptcy Code, 2016;"

20. For section 329, the following section shall be substituted, namely:—

"329. Any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrancer in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the Tribunal under this Act shall be void against the Company Liquidator."

21. For section 334, the following section shall be substituted, namely:—

"334. In the case of a winding up by the Tribunal, any disposition of the property including actionable claims, of the company and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up shall, unless the Tribunal otherwise orders, be void."

22. In section 336, in sub-section (1), in the opening paragraph, for the words "whether by the Tribunal or voluntarily, or which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up", the words "by the Tribunal under this Act or which is subsequently ordered to be wound up by the Tribunal under this Act" shall be substituted.

23. In section 337, for the words "or which subsequently passes a resolution for voluntary winding up", the words "under this Act", shall be substituted.

24. In section 342, sub-sections (2), (3) and (4) shall be omitted.

25. In section 343, for sub-section (1), the following sub-section shall be substituted, namely—

Transfers not in good faith to be void.

Transfer, etc., after commencement of winding up to be void.



"(1) The Company Liquidator may, with the sanction of the Tribunal, when the company is being wound up by the Tribunal,—

(i) pay any class of creditors in full;

(ii) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the company, or whereby the company may be rendered liable; or

(iii) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof."

26. In section 347, for sub-section (1), the following sub-section shall be substituted, namely—

"(1) When the affairs of a company have been completely wound up and it is about to be dissolved, the books and papers of such company and those of the Company Liquidator may be disposed of in such manner as the Tribunal directs."

27. In section 348, for sub-section (1), the following sub-section shall be substituted, namely—

"(1) If the winding up of a company is not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing, either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, duly audited, by a person qualified to act as auditor of the company, with respect to the proceedings in, and position of, the liquidation, with the Tribunal:

Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply;"

28. For section 357, the following section shall be substituted, namely:—

"357. The winding up of a company by the Tribunal under this Act shall be deemed to commence at the time of the presentation of the petition for the winding up."

Commencement  
of winding up by  
Tribunal.

29. In section 370, in the proviso, after the words "obtained for the winding up the company", the words "in accordance with the provisions of this Act or of the Insolvency and Bankruptcy Code, 2016" shall be inserted.

30. In section 372, after the words "The provisions of this Act", the words "or of the Insolvency and Bankruptcy Code, 2016, as the case may be," shall be inserted.

31. In section 419, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The Central Government shall, by notification, establish such number of benches of the Tribunal, as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under Part II of the Insolvency and Bankruptcy Code, 2016."

32. In section 424,—



(i) in sub-section (1), after the words, "other provisions of this Act", the words "or of the Insolvency and Bankruptcy Code, 2016" shall be inserted;

(ii) in sub-section (2), after the words, "under this Act", the words "or under the Insolvency and Bankruptcy Code, 2016" shall be inserted.

33. In section 429, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Tribunal may, in any proceedings for winding up of a company under this Act or in any proceedings under the Insolvency and Bankruptcy Code, 2016, in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such company under this Act or of corporate persons under the said Code, are situated or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,—

(a) take possession of such property, books of account or other documents; and

(b) cause the same to be entrusted to the Tribunal or other persons authorised by it."

34. For section 434, the following section shall be substituted, namely:—

"434. (1) On such date as may be notified by the Central Government in this behalf,—

(a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956 (1 of 1956), immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;

(b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:

Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days; and

(c) all proceedings under the Companies Act, 1956 (1 of 1956), including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer:

Provided that only such proceedings relating to the winding up of companies shall be transferred to the Tribunal that are at a stage as may be prescribed by the Central Government.

(2) The Central Government may make rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section."

Transfer of  
certain  
pending  
proceedings.



35. In section 468, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) as to the mode of proceedings to be held for winding up of a company by the Tribunal under this Act;

(ii) for the holding of meetings of creditors and members in connection with proceedings under section 230;

(iii) for giving effect to the provisions of this Act as to the reduction of the capital;

(iv) generally for all applications to be made to the Tribunal under the provisions of this Act;

(v) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;

(vi) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;

(vii) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;

(viii) the making of calls; and

(ix) the fixing of a time within which debts and claims shall be proved."

36. In Schedule V, in Part II, in section III, for clause (b), the following clause shall be substituted, namely:—

"(b) where the company—

(i) is a newly incorporated company, for a period of seven years from the date of its incorporation, or

(ii) is a sick company, for whom a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction for a period of five years from the date of sanction of scheme of revival, or

(iii) is a company in relation to which a resolution plan has been approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 for a period of five years from the date of such approval,

it may pay remuneration up to two times the amount permissible under section II."

The above Bill has been passed by the Houses of Parliament.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Additional Chief Secretary to Government.





સત્યમેવ જયતે

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

#### Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 06<sup>th</sup> October, 2016.

No. RPB/253-2016/Act.32-16-E:— The following Act of Parliament is republished for general Information :-

#### GOVERNMENT OF INDIA

#### MINISTRY OF LAW AND JUSTICE

#### Legislative Department

New Delhi, the 28<sup>th</sup> May, 2016. Jyeshtha 7, 1938 (Saka)

The following Act of Parliament has received the assent of the President on the 28<sup>th</sup> May, 2016 is hereby published for general information :-

#### THE DR. RAJENDRA PRASAD CENTRAL AGRICULTURAL UNIVERSITY ACT

[ACT No. 32 of 2016]

[28<sup>th</sup> May, 2016]

AN

ACT

*to provide for the establishment and incorporation of a University by conversion of the existing Rajendra Agricultural University, Pusa, Bihar to Dr. Rajendra Prasad Central Agricultural University for the development of agriculture and for the furtherance of the advancement of learning and pursuit of research in agriculture and allied sciences and to declare it to be an institution of national importance.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Dr. Rajendra Prasad Central Agricultural University Act. Short title and commencement.  
2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Whereas the objects of the institution known as the Dr. Rajendra Prasad Central Agricultural University are such as to make the institution one of the national importance, it is hereby declared that the institution known as the Dr. Rajendra Prasad Central Agricultural University is an institution of national importance.

Declaration of Dr. Rajendra Prasad Central Agricultural University as an institution of national importance Definitions.

3. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,—



- (a) "Academic Council" means the Academic Council of the University;
- (b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;
- (c) "agriculture" means the basic and applied sciences of the soil and water management, crop production including production of all garden crops, control of plants, pests and diseases, horticulture including floriculture, animal husbandry including veterinary and dairy science, fisheries, forestry including farm forestry, home-science, agricultural engineering and technology, marketing and processing of agricultural and animal husbandry products, land use and management;
- (d) "Board" means the Board of Management of the University;
- (e) "Board of Studies" means the Board of Studies of the University;
- (f) "Chancellor" means the Chancellor of the University;
- (g) "college" means a constituent college of the University whether located at the headquarters, campus or elsewhere;
- (h) "Department" means a Department of Studies of the University;
- (i) "employee" means any person appointed by the University and includes teachers and other staff of the University;
- (j) "extension education" means the educational activities concerned with the training of orchardists, farmers and other groups serving agriculture, horticulture, fisheries and improved practices related thereto and the various phases of scientific technology related to agriculture and agricultural production including post-harvest technology and marketing;
- (k) "Faculty" means Faculty of the University;
- (l) "Ordinances" means the Ordinances of the University;
- (m) "Regulations" means the Regulations made by any prescribed authority of the University;
- \* (n) "Research Advisory Committee" means the Research Advisory Committee of the University;
- (o) "Statutes" means the Statutes of the University;
- (p) "student" means a person enrolled in the University for undergoing a course of study for obtaining a degree, diploma or other academic distinction duly instituted;
- (q) "teachers" means Professors, Associate Professors, Assistant Professors, Teaching Faculty Members and their equivalent appointed for imparting instruction or conducting research or extension education programmes or combination of these in the University, college or any institute maintained by the University and designated as teachers by the Ordinances;
- (r) "University" means the Dr. Rajendra Prasad Central Agricultural University established under this Act;
- (s) "Vice-Chancellor" means the Vice-Chancellor of the University; and
- (t) "Visitor" means the Visitor of the University.

4. (1) The University established and incorporated under the Bihar Agricultural University Act, 1987, in so far as it relates to the Rajendra Agricultural University shall be established as a body corporate under this Act by the name of the "Dr. Rajendra Prasad Central Agricultural University".

(2) The headquarters of the University shall be at Pusa in the State of Bihar and it may also establish campuses at such other places within its jurisdiction as it may deem fit:



Provided that the University shall integrate the existing campus and other associated facilities of the Rajendra Agricultural University, Pusa and the effective date of take-over shall be as specified in the notification published in the Official Gazette.

(3) The first Chancellor, the first Vice-Chancellor and the first members of the Board, the academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership are hereby constituted a body corporate by the name of the Dr. Rajendra Prasad Central Agricultural University.

(4) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

5. The objects of the University shall be—

Objects of the University.

(a) to impart education in different branches of agriculture and allied sciences as it may deem fit;

(b) to further the advancement of learning and conducting of research in agricultural and allied sciences;

(c) to undertake programmes of extension education in the country with particular attention to the State of Bihar;

(d) to promote partnership and linkages with national and international educational institutions; and

(e) to undertake such other activities as it may, from time to time, determine.

6. The University shall have the following powers, namely:—

Powers of the University.

(i) to make provisions for instructions in agriculture and allied sciences;

(ii) to make provisions for conduct of research in agriculture and allied branches of learning;

(iii) to make provisions for dissemination of the findings of research and technical information through extension programmes;

(iv) to grant, subject to such conditions as it may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examination, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinction for good and sufficient cause;

(v) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(vi) to provide lectures and instructions for field workers, village leaders and other persons not enrolled as regular students of the University and to grant certificates to them as may be prescribed by the Statutes;

(vii) to co-operate or collaborate or associate with any other University or authority or institution of higher learning in such manner and for such purpose as the University may determine;

(viii) to establish and maintain colleges relating to agriculture, horticulture, fisheries, forestry, veterinary and animal science, dairying, home-science and allied sciences, as necessary;

(ix) to establish and maintain such campuses, Krishi Vigyan Kendras, special centres, specialised laboratories, libraries, museums or other units for research and institution as are, in its opinion, necessary for the furtherance of its objects;

(x) to create teaching, research and extension education posts and to make appointments thereto;



(xi) to create administrative, ministerial and other posts and to make appointments thereto;

(xii) to institute and award fellowships, scholarships, studentships, medals and prizes;

(xiii) to determine standards of admission to the University which may include examination, evaluation or any other method of testing;

(xiv) to provide and maintain residential accommodation for students and employees;

(xv) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xvi) to lay down conditions of service of all categories of employees, including their code of conduct;

(xvii) to regulate and enforce discipline among the students and the employees and to take such disciplinary measures in this regard as it may deem necessary;

(xviii) to fix, demand and receive such fees and other charges as may be prescribed by the Statutes;

(xix) to borrow, with the approval of the Central Government on the security of its property, money for the purpose of the University;

(xx) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of any property, movable or immovable including trust and endowment properties, for its purposes; and

(xxi) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

Jurisdiction.

7. (1) The jurisdiction and responsibility of the University with respect to teaching, research and programmes of extension education at the University level, in the field of agriculture and allied subjects shall extend to the whole country with special reference to the State of Bihar.

(2) All colleges, directorates, research stations, experiment stations and Krishi Vigyan Kendras of the existing Rajendra Agricultural University and other institutions coming under the jurisdiction and authority of the University shall be constituent unit and no other units shall be recognised as affiliated units.

(3) The University may assume responsibility for the training of field extension workers and others and may develop such training centres as may be required in various regions under its jurisdiction.

University  
open to all  
classes, castes  
and creed.

8. The University shall be open to persons of every sex, caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to enjoy or exercise any privilege thereof.

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, persons with disability or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes, the Scheduled Tribes and Other Backward Classes.

The Visitor.

9. (1) The President of India shall be the Visitor of the University.

(2) Subject to the provisions of sub-sections (3) and (4), the Visitor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University, its buildings, laboratories, libraries, museums, workshops and equipments, and of any institution or college and also of the examination, instruction and other work conducted



or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the administration and finances of the University.

(3) The Visitor shall, in every case, give notice to the University of his intention to cause, an inspection or inquiry to be made and the University shall, on receipt of such notice, have the right to make, within thirty days from the date of receipt of the notice or such other period as the Visitor may determine, such representations to him as it may consider necessary.

(4) After considering the representations, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (2).

(5) Where an inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative who shall have the right to appear in person and to be heard on such inspection or inquiry.

(6) The Visitor may address the Vice-Chancellor with reference to the results of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon as the Visitor may be pleased to offer and on receipt of the address made by the Visitor, the Vice-Chancellor shall communicate forthwith to the Board, the results of the inspection or inquiry and the views of the Visitor and the advice tendered by him upon the action to be taken thereon.

(7) The Board shall communicate through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken by it upon the results of such inspection or inquiry.

(8) Where the Board does not, within reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Board, issue such directions as he may think fit and the Board shall be bound to comply with such directions.

(9) Without prejudice to the foregoing provisions of this section, the Visitor may, by an order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the University to show cause why such an order should not be made and, if any cause is shown within a reasonable time, he shall consider the same.

(10) The Visitor shall have such other powers as may be prescribed by the Statutes.

10. The following shall be the officers of the University, namely:—

Officers of the  
University.

(1) the Chancellor;

(2) the Vice-Chancellor;

(3) the Deans;

(4) the Directors;

(5) the Registrar;

(6) the Comptroller;

(7) the University Librarian; and

(8) such other officers as may be prescribed by the Statutes.

11. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

The  
Chancellor.

(2) The Chancellor shall, by virtue of his office, be the Head of the University.

(3) The Chancellor shall, if present, preside at the convocations of the University held for conferring degrees.



The Vice-  
Chancellor.

12. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Board within three months from the date on which decision on such action is communicated to him and thereupon the Board may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes of the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

Deans and  
Director.

13. Every Dean and every Director shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Registrar.

14. (1) The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The  
Comptroller.

15. The Comptroller shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Other  
officers.

16. The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes.

Authorities of  
the  
University.

17. The following shall be the authorities of the University, namely:—

- (1) the Board;
- (2) the Academic Council;
- (3) the Research Council;
- (4) the Extension Education Council;
- (5) the Finance Committee;
- (6) the Faculties and Board of Studies; and
- (7) such other authorities as may be prescribed by the Statutes.

Board of  
Management.

18. (1) The Board shall be the principal executive body of the University.

(2) The constitution of the Board, the term of office of its members and its powers and functions shall be prescribed by the Statutes.



19. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act and the Statutes and Ordinances, have the control and general regulation of, and be responsible for the maintenance of standards of learning, education, instruction, evaluation and examination within the University and shall exercise such other powers and perform such other functions as may be conferred or imposed upon it by the Statutes. The Academic Council.
- (2) The constitution of the Academic Council and the term of office of its members shall be prescribed by the Statutes.
20. The constitution, powers and functions of the Research Council shall be prescribed by the Statutes. The Research Council.
21. The constitution, powers and functions of the Extension Education Council shall be prescribed by the Statutes. The Extension Education Council.
22. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes. The Finance Committee.
23. The University shall have such Faculties as may be prescribed by the Statutes. Faculties.
24. The constitution, powers and functions of the Board of Studies shall be prescribed by the Statutes. The Board of Studies.
25. The constitution, powers and functions of other authorities of the University referred to in clause (7) of section 17 shall be such as may be prescribed by the Statutes. Other authorities.
26. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—
- (a) the constitution, powers and functions of the authorities of the University, as may be constituted from time to time;
  - (b) the appointment and continuance in office of the members of the authorities, the filling up of vacancies, and all other matters relating to the authorities for which it may be necessary or desirable to provide;
  - (c) the appointment, powers and duties of the officers of the University and their emoluments;
  - (d) the appointment of teachers, academic staff and other employees of the University and their emoluments;
  - (e) the appointment of teachers and academic staff working in any other University or organisation for a specific period for undertaking a joint project;
  - (f) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;
  - (g) the principles governing the seniority of service of employees of the University;
  - (h) the procedure for arbitration in cases of dispute between employees or students and the University;
  - (i) the procedure for appeal to the Board by any employee or student against the action of any officer or authority of the University;
  - (j) the establishment and abolition of departments, centres, colleges and institutions;
  - (k) the conferment of honorary degrees;



(l) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(m) the institution of fellowships, scholarships, studentships, medals and prizes;

(n) the delegation of powers vested in the authorities or officers of the University;

(o) the maintenance of discipline among the employees and students; and

(p) all other matters which are to be, or may be, prescribed by the Statutes.

Statutes how  
to be made.

27. (1) The first Statutes are those set out in the Schedule.

(2) The Board may from time to time make Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Board shall not make, amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Board.

(3) Every Statute or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent therefrom or remit it to the Board for consideration.

(4) A Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may amend or repeal the Statutes referred to in sub-section (1) during the period of three years immediately after the commencement of this Act.

(6) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Board is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Board for its inability to comply with such direction, make or amend the Statutes suitably.

Power to  
make  
Ordinances.

28. (1) Subject to the provisions of this Act and Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees, diplomas and certificates of the University;

(f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(g) the conduct of examinations, including the term of office and manner of appointment and duties of examining bodies, examiners and moderators;

(h) the conditions of residence of the students;

(i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescribing of special courses of studies for them;



(j) the appointment and emoluments of employees other than those for whom provision has been made in the Statutes;

(k) the establishment of special centres, specialised laboratories and other committees;

(l) the manner of co-operation and collaboration with other Universities and authorities including learned bodies or associations;

(m) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(n) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;

(o) the management of colleges and institutions established by the University;

(p) the setting up of a mechanism for redressal of grievances of employees; and

(q) all other matters which by this Act or the Statutes may be provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended or repealed at any time by the Board in the manner prescribed by the Statutes.

29. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees appointed by them and not provided for by this Act, the Statutes or the Ordinances in the manner prescribed by the Statutes.

Regulations.

30. (1) The annual report of the University shall be prepared under the direction of the Board, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Board on or after such date as may be prescribed by the Statutes and the Board shall consider the report in its annual meeting.

Annual report.

(2) The Board shall submit the annual report to the Visitor along with its comments, if any.

(3) A copy of the annual report as prepared under sub-section (1) shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both the Houses of Parliament.

31. (1) The annual accounts of the University shall be prepared under the directions of the Board and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

Annual accounts.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Board and the Visitor along with the observations of the Board.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Board and observations of the Board, if any, shall be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both the Houses of Parliament.

(5) The audited annual accounts after having been laid before both the Houses of Parliament shall be published in the Official Gazette.

32. (1) Every employee of the University shall be appointed under a written contract which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

Conditions of service of employees.



(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Board, one member nominated by the employee concerned and an umpire appointed by the Visitor.

(3) The decision of the Tribunal shall be final, and no suit shall lie in any civil court in respect of the matters decided by the Tribunal.

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

26 of 1996.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

Procedure of  
appeal and  
arbitration in  
disciplinary  
cases against  
students.

33. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Board and the Board may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 32 shall, as far as may be, apply to a reference made under this sub-section.

Right to  
appeal.

34. Every employee or student of the University or of a college or institution maintained by the University shall, notwithstanding anything contained in this Act, have a right to appeal, within such time as may be prescribed by the Statutes, to the Board against the decision of any officer or authority of the University or any college or an institution, as the case may be, and thereupon the Board may confirm, modify or reverse the decision appealed against.

Provident  
and pension  
funds.

35. (1) The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may, if deem fit, declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund.

19 of 1925.

Disputes as to  
constitution  
of University  
authorities.

36. If any question arises as to whether any person has been duly appointed as, or is entitled to be, a member of any authority of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Constitution  
of committees.

37. Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such persons, if any, as the authority in each case may think fit.

Filling of  
casual  
vacancies.

38. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints or co-opts the member whose place has become vacant and the person or body appointed or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term, for which the person whose place he fills would have been a member.



39. No act or proceedings of any authority of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Proceedings of University authorities not invalidated by vacancy.

40. No suit, prosecution or other legal proceedings shall lie against the Board, Vice-Chancellor, any authority or officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Protection of action taken in good faith.

41. A copy of any receipt, application, notice, order, proceeding, resolution of any authority or Committee of the University, or other documents in possession of the University, or any entry in any register duly maintained by the University, if verified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force.

Mode of proof of University records.

1 of 1872.

42. (1) On and from the date of commencement of this Act,—

Effect of establishment of University.

(a) any reference to the Rajendra Agricultural University in any contract or other instrument shall be deemed as a reference to the University;

(b) all property, movable and immovable, of or belonging to the Rajendra Agricultural University shall vest in the University;

(c) all rights and liabilities of the Rajendra Agricultural University shall be transferred to, and be the rights and liabilities of, the University.

(2) Every person permanently employed in the Rajendra Agricultural University immediately before the commencement of the Act who meets the requisite qualification and criteria of recruitment in the University shall be provided an opportunity to be employed as such:

Provided that every member of the academic staff and member of Faculty who does not meet the requisite qualification and criteria shall be given an opportunity for two years to upgrade the qualification and to meet the criteria:

Provided further that every other person permanently employed shall be given an opportunity to upgrade the qualification and to meet the criteria, in the manner provided by the Regulations:

Provided also that the tenure, remuneration, terms and conditions, rights and privileges as to pension, leave, gratuity, provident fund and all other matters of every other person permanently employed by the Rajendra Agricultural University shall be determined by the State Government of Bihar.

(3) All efforts shall be made by the State Government of Bihar to engage any surplus or temporary academic staff, teacher, member of Faculty or other employee of the Rajendra Agricultural University, by or against whom any dispute is pending.

(4) Any dispute or litigation, the cause of action for which has arisen between any member of academic staff, teacher, member of Faculty or other employee and the Rajendra Agricultural University before the commencement of this Act shall be instituted, prosecuted or continued between the academic staff, teacher, member of Faculty or other employee and the Rajendra Agricultural University, as if this Act had not been enacted, and all such cases shall be managed by a special cell to be constituted by the State Government of Bihar and all expenses relating to the management of such cases including any compensation payable to any person thereof shall be borne by the State Government.



(5) Any academic course, programme or scheme as on the date of commencement of the Act shall be continued, till the completion of the course, programme or scheme with such modifications as the University may deem fit.

(6) The State Government of Bihar and the University shall bear the proportionate cost of pension and other liabilities of every academic staff, teacher, member of Faculty or other employee, proportionate to the extent of the respective period of service of the person and the State Government shall provide its contribution to the University which may discharge any liability on account of this.

(7) Any matter relating to permanent record of students, teachers, academic staff, Faculty and every other employee shall be provided by Regulations.

(8) Pension and all other post-retirement benefits including medical benefits of every academic staff, teacher, faculty member and every other employee who has superannuated before the commencement of this Act shall be borne by the State Government of Bihar, the payment of which shall be made through the University and shall be governed by the rules relating thereof made by the State Government of Bihar in this behalf.

(9) The retirement age of every teacher, academic staff, Faculty and every other employee of the University shall be governed by any law for the time being in force.

(10) Any matter governing the conditions of service relating to the teacher, academic staff, Faculty and every other employee for which no provision has been made in this Act, shall be determined by the corresponding provisions made by the Central Government.

Power to  
remove  
difficulties.

43. (1) If any difficulty arises in giving effect to the provision of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulties:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Transitional  
provisions.

44. Notwithstanding anything contained in this Act, and the Statutes,—

(a) the first Chancellor and the first Vice-Chancellor shall be appointed by the Visitor and shall hold office for a term of five years;

(b) the first Registrar and the first Comptroller shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(c) the first members of the Board shall be nominated by the Visitor and shall hold office for a term of three years;

(d) the first members of the Academic Council shall be nominated by the Visitor and shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Visitor, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.

Repeal of  
Bihar  
Agricultural  
University  
Act.

45. (1) The Bihar Agricultural University Act, 1987 in so far as it relates to the Rajendra Agricultural University, Pusa, Bihar is hereby repealed.

Bihar Act 8  
of 1988.

(2) Notwithstanding the repeal,—

(a) all appointments made, orders issued, degrees and other academic distinctions conferred, diplomas and certificates awarded, privileges granted or other things done under the Bihar Agricultural University Act, 1987 in so far as it relates to the

Bihar Act 8  
of 1988.



Rajendra Agricultural University, Pusa, Bihar, shall be deemed to have been respectively made, issued, conferred, awarded, granted or done under the corresponding provisions of this Act, and, except as otherwise provided by or under this Act or the Statutes, continue in force unless and until they are superseded by any order made under this Act or the Statutes; and

(b) all proceedings of Selection Committees for the appointment or promotions of teachers that took place before the commencement of this Act and all actions of the Governing Body in respect of the recommendations of such Selection Committees where no orders of appointment on the basis thereof were passed before the commencement of this Act, in so far as it relates to Rajendra Agricultural University, shall, notwithstanding that the procedure for selection has been modified by this Act, be deemed to have been valid but further proceeding in connection with such pending selections shall be taken in accordance with the provisions of this Act and be continued from the stage where they stood immediately before such commencement, except if the concerned authorities take, with the approval of the Visitor, a decision to the contrary.

46. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statutes, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statutes, Ordinances or Regulations may be applicable.

Statutes,  
Ordinances  
and  
Regulations  
to be  
published in  
the Official  
Gazette and  
to be laid  
before  
Parliament.



## THE SCHEDULE

(See section 27)

## THE STATUTES OF THE UNIVERSITY

*The Chancellor:*

1. (1) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Board from amongst persons of eminence in education in general and agricultural sciences in particular:

Provided that if the Visitor does not approve any of the persons so recommended, he may call for fresh recommendations from the Board.

(2) The Chancellor shall hold office for a term of five years and shall not be eligible for reappointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

*The Vice-Chancellor:*

2. (1) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (2).

(2) The Committee referred to in clause (1) shall consist of the following:—

(i) Secretary, Department of Agricultural Research and Education, Government of India who shall be the Chairman;

(ii) one nominee of the Visitor as Member, who shall also be the convener;

(iii) one nominee of the Central Government.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier, and he shall be eligible for reappointment for a further term of five years, or until he attains the age of seventy years whichever is earlier:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office for a period not exceeding one year or until his successor is appointed and enters upon his office.

(5) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(i) the Vice-Chancellor shall be paid a monthly salary and allowances other than the house rent allowance, at the rate fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence;

(ii) the Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Board with the approval of the Visitor from time to time:

Provided that where an employee of the University or a college or an institution maintained by it, or any other University or any institution maintained by or affiliated to such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate



at which the person had been contributing immediately before his appointment as the Vice Chancellor :

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme;

(iii) the Vice-Chancellor shall be entitled to travelling and other allowances as per rate fixed from time to time by the Government of India for the officers equivalent to the rank of Secretary to the Government of India;

(iv) the Vice-Chancellor shall be entitled to transfer travelling allowances and other allowances as admissible to officers of the rank of Secretary to the Government of India for joining and after relinquishing the post;

(v) the Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and a-half days for each completed month of service;

(vi) in addition to the leave referred to in sub-clause (iv), the Vice-Chancellor shall also be entitled to half-pay leave at the rate of twenty days for each completed year of service. This half-pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when commuted leave is available, twice the amount of half-pay leave shall be debited against half-pay leave due;

(vii) the Vice-Chancellor shall be entitled to Leave Travel Concession and Home Travel Concession as per rules of Government of India;

(viii) the Vice-Chancellor shall be entitled to the benefit of leave encashment at the time of laying down the office as per rules of Government of India.

(6) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill health or any other cause, the senior-most Dean or Director, as the case may be, shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the Vice-Chancellor attends to the duties of his office, as the case may be.

*Powers and duties of the Vice-Chancellor:*

3. (1) The Vice-Chancellor shall be *ex officio* Chairman of the Board, the Academic Council, the Finance Committee, the Research Council and the Extension Education Council and shall, in the absence of the Chancellor, preside over the Convocations held for conferring degrees.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority of the University, but shall not be entitled to vote thereat unless he is a member of such authority.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed, and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(5) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he may deem fit.



(6) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Board, the Academic Council, the Research Council, the Extension Education Council and the Finance Committee.

*The Dean of colleges and Faculties:*

4. (1) Each Faculty shall have a Dean who shall also be the head of the college concerned.

(2) If any Faculty has more than one college, the Vice-Chancellor may nominate one of the Deans as the Dean of the Faculty.

(3) The Dean of the college shall be appointed by the Board on the recommendations of the Selection Committee constituted for the purpose as per statute 18 and he shall be a whole-time salaried officer of the University.

(4) The Dean shall be entitled to rent free and unfurnished residential accommodation.

(5) The Dean shall hold the office for a term of five years and shall be eligible for reappointment:

Provided that a Dean on attaining the age of sixty-five years shall cease to hold office as such.

(6) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by such persons as the Vice-Chancellor may appoint for the purpose.

(7) The Dean shall be responsible to the Vice-Chancellor for the conduct and maintenance of the standards of teaching in the college and Faculty and shall perform such other functions as may be prescribed by the Ordinances.

(8) The Dean shall be the *ex-officio* Chairman of the Board of Studies of the Faculty, a member of the Academic Council, the Research Council and the Extension Education Council of the University.

*The Director of Education:*

5. (1) The Director of Education shall be appointed by the Board on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Director of Education shall be entitled to rent free and unfurnished residential accommodation.

(3) The Director of Education shall hold office for a term of five years and shall be eligible for reappointment:

Provided that Director of Education on attaining the age of sixty-five years shall cease to hold office as such.

(4) The Director of Education shall be responsible for planning, co-ordination and supervision for all educational programmes in the various Faculties of the University.

*The Director of Research:*

6. (1) The Director of Research shall be appointed by the Board on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Director of Research shall be entitled to rent free and unfurnished accommodation.

(3) The Director of Research shall hold office for a term of five years and shall be eligible for reappointment:



Provided that the Director of Research on attaining the age of sixty-five years shall cease to hold office as such.

(4) The Director of Research shall be responsible for supervision and coordination of all research programmes of the University and shall be responsible to the Vice-Chancellor for performance of his duties.

(5) The Director of Research shall be *ex officio* Member-Secretary of the Research Council of the University.

*The Director of Extension Education:*

7. (1) The Director of Extension Education shall be appointed by the Board on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Director of Extension Education shall be entitled to rent free and unfurnished accommodation.

(3) The Director of Extension Education shall hold office for a term of five years and shall be eligible for reappointment:

Provided that the Director of Extension Education on attaining the age of sixty-five years shall cease to hold office as such.

(4) The Director of Extension Education shall be responsible for supervision and coordination of all Extension Education Programmes in the University and shall be responsible to the Vice-Chancellor for performance of his duties.

(5) The Director of Extension Education shall be *ex officio* Member-Secretary of the Extension Education Council of the University.

*The Registrar:*

8. (1) The Registrar shall be appointed by the Board on the recommendations of a duly constituted Selection Committee under Statute 18 and he shall be a whole-time salaried officer of the University.

(2) The Registrar shall be responsible to the Vice-Chancellor for performance of his duties.

(3) The Registrar shall be appointed for a term of five years and shall be eligible for reappointment.

(4) He may also be appointed on deputation for a specified period not exceeding five years.

(5) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

Provided that the Registrar shall retire on attaining the age of sixty years.

(6) In case of a person appointed on deputation, his tenure, emoluments and other terms of service shall be according to the terms of deputation.

(7) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence, or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(8) (a) The Registrar shall have the power to take disciplinary action against such of the employees excluding teachers, as may be specified in the order of the Board and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:



Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon conclusion of inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Board against an order of the Vice-Chancellor imposing any penalty.

(9) The Registrar shall be the *ex officio* Secretary of the Board and the Academic Council, but shall not be deemed to be a member of any of these authorities.

(10) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Board shall commit to his charge;

(b) to issue all notice convening meeting of the Board, the Academic Council and of any Committee appointed by those authorities;

(c) to keep the minutes of all the meetings of the Board, the Academic Council and of any committees appointed by those authorities;

(d) to conduct the official correspondence of the Board and the Academic Council;

(e) to arrange for the examinations of the University in accordance with the manner prescribed by the Ordinances or notifications;

(f) to supply to the Visitor, copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(g) to represent the University in suits or proceedings by or against the University, sign powers of attorney and verify pleadings or depute his representatives for the purpose; and

(h) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required, from time to time, by the Board or the Vice-Chancellor.

#### *The Comptroller:*

9. (1) The Comptroller shall be appointed by the Board on the recommendations of a duly constituted Selection Committee under Statute 18 and he shall be a whole-time salaried officer of the University.

(2) The Comptroller shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The Comptroller may also be appointed on deputation for a specified period not exceeding five years.

(4) The emoluments and other terms and conditions of service of the Comptroller shall be such as may be prescribed by the Ordinances.

(5) In case of a person being appointed as Comptroller on deputation, his tenure, emoluments and other terms of service shall be according to the standard of deputation:

Provided that the Comptroller shall retire on attaining the age of sixty years.



(6) When the office of the Comptroller is vacant or when the Comptroller is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(7) The Comptroller shall be the *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a member of such Committee.

(8) The Comptroller shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other duties as may be specified in the Statutes, the Ordinances or as may be required, from time to time, by the Board or the Vice-Chancellor.

(9) Subject to the control of the Board, the Comptroller shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Board for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Board;

(d) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, specialised laboratories, colleges and institutions maintained by the University;

(g) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(h) call for from any office, laboratory, college or institution maintained by the University and information or returns that he may consider necessary for performance of his duties.

(10) Any receipt given by the Comptroller or the person or persons duly authorised in this behalf by the Board for any money payable to the University shall be sufficient discharge for payment of such money.

*Heads of Departments:*

10. (1) Each Department shall have a Head appointed by the Vice-Chancellor who shall be not below the rank of an Associate Professor and whose duties and functions and terms and conditions of appointment shall be prescribed by the Ordinances.

(2) The Head of Department shall be responsible to the Dean for teaching, to Director of Research for research, to Director of Extension Education for extension education work.

(3) The Dean shall be the administrative controlling officer of the Heads of Departments in college concerned:

Provided that if there is more than one Professor in any Department, the Head of the Department shall be appointed by the Vice-Chancellor from amongst the Professors:



Provided further that in the case of Department where there is only one Professor, the Vice-Chancellor shall have the option, to appoint either the Professor or an Associate Professor as the Head of the Department.

(4) It shall be open to a Professor or an Associate Professor to decline the offer of appointment as the Head of the Department.

(5) A Professor or an Associate Professor appointed as Head of the Department shall hold office as such for a period of three years and shall be eligible for reappointment.

(6) A Head of the Department may resign his office at any time during his tenure of office.

(7) A Head of the Department shall perform such functions as may be prescribed by the Ordinances.

(8) The Head of the Department shall retire at the age of sixty-five years.

*Librarians:*

11. (1) Every Librarian shall be appointed by the Board on the recommendations of the Selection Committee constituted for the purpose under Statute 18 and he shall be a whole-time salaried officer of the University.

(2) Every Librarian shall exercise such powers and perform such duties as may be assigned to him by the Vice-Chancellor.

*Constitution, powers and functions of the Board of Management:*

12. (1) The Board shall consist of the following members, namely:—

(i) the Vice-Chancellor, *ex officio* Chairman;

(ii) three Secretaries, from amongst the Secretaries-in-charge of the Departments of Agriculture or Animal Husbandry, Fishery and Horticulture of the State of Bihar to be nominated by the Visitor by rotation;

(iii) three eminent scientists to be nominated by the Visitor;

(iv) one distinguished person representing Agro-based industries or a manufacturer having a special knowledge in agricultural development to be nominated by the Visitor;

(v) the Deputy Director-General (Education) representing the Indian Council of Agricultural Research;

(vi) one Dean of college and one Director to be nominated by the Vice-Chancellor on rotational basis;

(vii) two persons representing farmers to be nominated by the Vice-Chancellor;

(viii) one woman social worker representing woman social organisation to be nominated by the Vice-Chancellor;

(ix) an Advisor (Agriculture), NITI Aayog;

(x) a distinguished authority on natural resource or environment management to be nominated by the Visitor;

(xi) two persons not below the rank of Joint Secretary representing respectively the Departments of Government of India dealing with the Agriculture and Animal Husbandry to be nominated by the concerned Secretary to the Government of India;

(xii) nominee of the Secretary representing the Department of Agricultural Research and Education, Government of India;

(xiii) the Registrar of the University-Secretary.



(2) The term of office of the members of the Board, other than *ex officio* members, shall be three years.

(3) The Board shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(4) Subject to the provisions of this Act, the Statutes and the Ordinances, the Board shall in addition to all other powers vested in it, have the following powers, namely:—

(i) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of University staff, subject to the approval of the Indian Council of Agricultural Research;

(ii) to appoint such teachers and other academic staff, as may be necessary, and Deans of colleges, Director and Heads of other institutions maintained by the University on the recommendations of the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(iii) to create administrative, ministerial and other necessary posts and to make appointments thereto in the manner prescribed by the Ordinances;

(iv) to regulate and enforce discipline among employees in accordance with the Statutes and Ordinances;

(v) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose to appoint such agents as it may think fit;

(vi) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendations of the Finance Committee;

(vii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds shares or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(viii) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(ix) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(x) to enter into, vary, carry out and cancel contracts on behalf of the University;

(xi) to entertain, adjudicate upon, and, if thought fit, to redress any grievances of the employees and students of the University;

(xii) to fix fees, honorarium, emoluments and travelling allowances of examiners or experts or consultants, advisors and officers on special duty;

(xiii) to select a common seal for the University and provide for the custody and use of such seal;

(xiv) to make such special arrangements as may be necessary for the residence and discipline of women students;

(xv) to delegate any of its powers to the Vice-Chancellor, Deans, Directors, Registrar or Comptroller or such other employee or authority of the University or to a Committee appointed by it as it may deem fit;

(xvi) to institute fellowships, scholarships, studentships, medals and prizes;

(xvii) to provide for appointment of Visiting Professor, Emeritus Professor, Consultant and Officers on Special Duty and scholars and to determine the terms and conditions of such appointment;



(xviii) to exercise such other powers and perform such other duties as may be conferred on it by the Act, or the Statutes.

*Quorum for meetings of the Board:*

13. Five members of the Board shall form the quorum for a meeting of the Board.

*Constitution and powers of the Academic Council:*

14. (1) The Academic Council shall consist of the following members, namely:—

- (i) the Vice-Chancellor, *ex officio* Chairman;
- (ii) all the Deans of the colleges of the University;
- (iii) the Director of Research of the University;
- (iv) the Director of Extension Education of the University;
- (v) the Director of Education;
- (vi) a Librarian to be nominated by the Vice-Chancellor on rotational basis;
- (vii) two eminent scientists to be co-opted from outside the University to be nominated by the Vice-Chancellor;
- (viii) seven Heads of the Departments, at least one from each Faculty to be nominated by the Vice-Chancellor;
- (ix) the Registrar of the University, *ex officio* Secretary.

(2) The term of office of the members of the Academic Council other than *ex officio* members shall be three years.

(3) Subject to the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

- (a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instruction, co-operative teaching among colleges and institutions, evaluation and improvements in academic standards;
- (b) to bring about inter-college coordination and establish or appoint Committee on academic matters;
- (c) to consider matters of general academic interest either on its own initiative or on a reference by a college or the Board and to take appropriate action thereon; and
- (d) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residences, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

*Quorum for meetings of the Academic Council:*

15. One-third members of the Academic Council shall form the quorum for a meeting of the Academic Council.

*Board of Studies:*

16. (1) Each Faculty shall have a Board of Studies.

(2) The Board of Studies of each Faculty shall be constituted as under:—

- (i) Dean of Faculty—Chairperson;
- (ii) Director of Research—Member;
- (iii) Director of Extension Education—Member;



(iv) All Heads of Departments of the Faculty not below the rank of Associate Professor—Member;

(v) One representative of the Academic Council not belonging to the particular Faculty to be nominated by the Vice-Chancellor;

(vi) Two eminent scientists from agricultural education system not belonging to the University to be nominated by the Vice-Chancellor;

(vii) One final year Post-Graduate student with highest Overall Grade Point Average (OGPA) — Member;

(viii) Assistant Registrar (Academic) of the Faculty — Member;

(ix) Director of Education—Member.

(3) The functions of the Board of Studies shall be to recommend to the Academic Council, the course curriculum to be prescribed for various degrees to be offered by the concerned faculty and to make suitable recommendations for the teaching of the prescribed approved course, namely:—

(a) courses of studies and appointment of examiners for courses, but excluding research degrees;

(b) appointment of supervisors of research; and

(c) measures for the improvement of the standard of teaching and research.

*Finance Committee:*

17. (1) The Finance Committee shall consist of the following members, namely:—

(i) the Vice-Chancellor — Chairman;

(ii) Financial Advisor, Department of Agricultural Research and Education or his nominee not below the rank of Deputy Secretary;

(iii) three persons to be nominated by the Board, out of whom at least one shall be a member of the Board;

(iv) three persons to be nominated by the Visitor; and

(v) the Comptroller of the University—Member-Secretary.

(2) Three members of the Finance Committee shall form the quorum for meeting of the Finance Committee.

(3) The members of the Finance Committee other than *ex officio* members, shall hold office for a term of three years.

(4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(5) The Finance Committee shall meet at least twice a year to examine the accounts and to scrutinise proposals for expenditure.

(6) Every proposal relating to creation of posts and those items which have not been included in the Budget, shall be examined by the Finance Committee before they are considered by the Board.

(7) The annual accounts and the financial estimates of the University prepared by the Comptroller, shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Board for approval.

(8) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in case of productive works, may include the proceeds of loans).



*Selection Committees:*

18. (1) There shall be a selection Committee for making recommendations to the Board for appointment to the post of teachers, Comptroller, Registrar, Librarians, Deans of colleges, Directors and Heads of other institutions maintained by the University.

(2) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of members as specified in the corresponding entries in column 2 of the said Table:

TABLE

1	2	3
A. Directors /Deans	(i) Vice-Chancellor or his nominee—Chairman (ii) One nominee of the Visitor—Member (iii) Three eminent scientists not below the rank of Vice-Chancellor or equivalent (serving or retired) to be nominated by the Vice-Chancellor from a panel of six names approved by the Board—Member.	
B. Professors/Equivalent	(i) Vice Chancellor or his nominee—Chairman (ii) One nominee of the Visitor—Member (iii) Dean of concerned Faculty —Member (iv) Director of Research or Director of Extension Education or Director of Education to be nominated by the Vice-Chancellor—Member (v) Three eminent subject specialists not below the rank of Head of Departments (serving or retired) to be nominated by the Vice-Chancellor out of a panel of six names approved by the Board—Member.	
C. Associate Professor/Assistant Professor/Equivalent	(i) Vice-Chancellor or his nominee—Chairman (ii) One nominee of the Visitor—Member (iii) Dean of concerned Faculty —Member (iv) Director of Education or Director of Research or Director of Extension Education to be nominated by the Vice-Chancellor—Member (v) Two eminent teachers or scientists not below the rank of Professor or equivalent (serving or retired) to be nominated by the Vice-Chancellor out of a panel of six names approved by the Board—Members.	
D. Registrar/Comptroller/ Librarian	(i) Vice-Chancellor or his nominee—Chairman (ii) One nominee of the Visitor—Member (iii) One Director/Dean to be nominated by the Vice-Chancellor—Member (iv) Two experts in the concerned subject to be nominated by the Vice-Chancellor, out of a panel of six names approved by the Board—Members.	



(3) The Vice-Chancellor, or in his absence, his nominee shall preside at the meeting of the Selection Committee:

Provided that the meetings of the Selection Committee shall be fixed after prior consultation with the nominees of the Visitor:

Provided further that the proceedings of the Selection Committee shall not be valid unless at least two members, not in the service of the University are present in the meeting.

(4) The meeting of the selection Committee shall be convened by the Vice-Chancellor or in his absence by his nominee.

(5) The procedure to be followed by the Selection Committee in making recommendations shall be decided by the Committee prior to the interview.

(6) If the Board is unable to accept the recommendations made by the Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(7) Appointments to temporary posts shall be made in the manner indicated below:—

(i) The Vice-Chancellor shall have the authority to appoint a person on *ad hoc* basis for a period not exceeding six months extendable by a further period of six months with the approval of the Board:

Provided that if the Vice-Chancellor is satisfied that in the interest of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis by the local Selection Committee referred to in sub-clause (ii) for the period not exceeding six months.

(ii) If the temporary vacancy is for a period less than one year, an appointment to such vacancy shall be made on the recommendation of the local Selection Committee consisting of the Dean of the college concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for one month and report to the Vice-Chancellor and the Registrar about such appointment.

(iii) No teacher appointed temporarily shall, if he is not recommended by the regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by the local Selection Committee or the regular Selection Committee, for a temporary or permanent appointment, as the case may be.

(8) Mode of constitution of the Selection Committee for non-academic staff, not prescribed in the Statutes, shall be prescribed by the Ordinances.

*Special mode of appointment:*

19. (1) Notwithstanding anything contained in Statute 18, the Board may invite a person of high academic distinction and professional attainments to accept a post of Professor or Associate Professor or any other academic post in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so, appoint him to the post.

(2) The Board may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.



*Appointment for a fixed tenure:*

20. The Board may appoint a person selected in accordance with the procedure laid down in Statute 18 for a fixed tenure on such terms and conditions as it deems fit.

*Qualifications of Director, Dean, Professor, etc.:*

21. (1) Qualifications of Director, Dean, Professor, Associate Professor and Assistant Professor of different Faculties and their equivalents in Research and Extension Education shall be as prescribed by the Ordinances.

(2) Qualification of non-academic staff shall be prescribed by the Ordinances.

*Committees:*

22. (1) The authorities of the University specified in section 17 may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

(2) Any such Committee appointed under clause (1) may deal with any subject delegated to it subject to confirmation by the authority appointing it.

*Terms and conditions of service and code of conduct of the teachers, etc.:*

23. (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(2) Every teacher and other staff of the University shall be appointed on a written contract, the term of which shall be prescribed by the Ordinances.

(3) A copy of every contract referred to in clause (2) shall be deposited with the Registrar.

*Terms and conditions of service and code of conduct of other employees:*

24. All the non-academic employees of the University, shall in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations as made from time to time.

*Seniority list:*

25. (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and, in accordance with such other principles as the Board may, from time to time, prescribe.

(2) It shall be the duty of the Registrar to prepare and maintain, in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any person, submit the matter to the Board whose decision thereon shall be final.

*Removal of employees of the University:*

26. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in case of the teacher or member of the academic staff and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee, may, by order in writing, place



such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Board, the circumstances in which the order was made:

Provided that the Board may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Board in respect of teacher and other academic staff and the appointing authority, in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or other employees, as the case may be, on grounds of misconduct.

(3) Save as aforesaid, the Board or the appointing authority, as the case may be, shall not be entitled to remove any teacher, member of the academic staff or other employees except for a good cause and after giving three months, notice or on payment of three months salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Board or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Board or, the appointing authority, as the case may be, or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date from which the resignation is accepted by the Board or the appointing authority, as the case may be.

*Honorary degrees:*

27. (1) The Board may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency, the Board may, on its own motion, make such proposals.

(2) The Board may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

*Withdrawal of degrees, etc.:*

28. The Board may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:



Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Board.

*Maintenance of discipline among students of the University:*

29. (1) All powers relating to discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to such officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of study in a college, institution or Department of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, college, institution or Department for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Dean of colleges, institutions and Heads of the teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective colleges, institutions and teaching Departments in the University as may be necessary for the proper conduct of such colleges, institutions and teaching in the Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, the Deans and other persons specified in clause (4), detailed rules of disciplines and proper conduct shall be made by the University.

(6) The Deans of the colleges, institutions and Heads of the teaching Departments in the University may also make the supplementary rules as they deem necessary for the purposes referred to in clause (5).

(7) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

*Maintenance of discipline among students of colleges, etc.:*

30. All powers relating to discipline and disciplinary action in relation to the students of the college or an institution maintained by the University, shall vest in the Dean of the College or institution, as the case may be, in accordance with the procedure prescribed by the Ordinances.

*Convocations:*

31. Convocations of the University for the conferring of the degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

*Acting Chairman:*

32. When no provision is made for a Chairman to preside over a meeting of any Committee or when the Chairman so provided for is absent, or the Vice-Chancellor has not in writing made any arrangement, the members shall elect one from among themselves to preside over meeting.



*Resignation:*

33. Any member, other than an *ex officio* member of the Board, Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

*Disqualifications:*

34. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,—

(i) if he is of unsound mind;

(ii) if he is an undischarged insolvent;

(iii) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for a period of not less than six months.

(2) If any question arises as to whether a person is or has been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision thereon shall be final and no suit or other proceeding shall lie in any civil court against such decision.

*Residence condition for membership and office:*

35. Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

*Membership of authorities by virtue of membership of other bodies:*

36. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority of the University in his capacity as a member of a particular authority or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or the holder of that particular appointment, as the case may be.

*Alumni Association:*

37. (1) There shall be an Alumni Association for the University.

(2) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(3) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the said association for at least one year prior to the date of the election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

*Students' Council:*

38. (1) There shall be, in each College of the University, a Students' Council for each academic session for the purpose of making recommendations to the authorities of the University with regard to various activities relating to students welfare, including games, sports, dramatics, debates, cultural activities, etc., and such Council shall consist of:—

(i) the Dean of the College—Chairperson;

(ii) all Hostel Wardens;

(iii) Campus Estate Officer;



- (iv) five Heads of the Departments to be nominated by the Dean;
  - (v) Hostel Prefects;
  - (vi) one student from each class or year who has secured the Highest Overall Grade Point Average (OGPA) in the previous academic session;
  - (vii) Students Welfare Officer—Member-Secretary.
- (2) The Students Council shall meet at least once in each semester.

*Ordinances how made:*

39. (1) The first Ordinances made under sub-section (2) of section 27 may be amended or repealed at any time by the Board in the manner specified below.

(2) No Ordinances in respect of the matters enumerated in section 27, other than those enumerated in clause (n) of sub-section (1) thereof shall be made by the Board unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Board shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for reconsideration either in whole or in part, together with any amendment which the Board may suggest.

(4) Where the Board has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total member of numbers of the Academic Council, the draft may be sent back to the Board which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Board shall come into effect immediately.

(6) Every Ordinance made by the Board shall be submitted to the Visitor within two weeks from the date of its adoption.

(7) The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Board about his objection to the proposed Ordinance.

(8) The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance, or disallow the Ordinance and his decision shall be final.

*Regulations:*

40. (1) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:—

(i) laying down the procedure to be observed at meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinances to be specified by the Regulations;

(iii) providing for all other matters concerning such authority or Committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authorities of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Board may direct the amendment in such manner as it may specify of any Regulation made under the Statutes or the annulment of any such Regulation.



*Delegation of Powers:*

41. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its power to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of power so delegated shall continue to vest in the officer or authority delegating such power.

*Collaboration with other Institution and Organisations:*

42. The University shall have the authority to enter into an agreement through a Memorandum of Understanding with any research and /or academic institution of higher learning to conduct collaborative Post-Graduate Research Programme to fulfil the partial requirement for the award of Master's and Ph. D. degrees of the University.

*Constitution and Function of Research Council:*

43. (1) There shall be a Research Council of the University to exercise general supervision over the research policies and programmes of the University in the area of Agriculture and allied disciplines.

(2) The Research Council shall consist of the following members, namely:—

- (i) the Vice-Chancellor—Chairman;
- (ii) Director of Extension Education—Member;
- (iii) Director of Education—Member;
- (iv) all Deans of the colleges of the University—Members;
- (v) Nominee of the State Governments not below the rank of Director—Members;
- (vi) all co-ordinators of the Research Teams of the University—Members;
- (vii) two eminent agricultural scientists to be nominated by the Vice-Chancellor for three years—Members;
- (viii) Director of Research—Member-Secretary.

(3) The Research Council shall meet at least once in a year.

(4) One-third members of the Research Council shall form a quorum for the meeting of the Research Council.

(5) If a vacancy occurs due to resignation or otherwise the same shall be filled up for the remaining period.

*Constitution and function of the Extension Education Council:*

44. (1) There shall be an Extension Education Council of the University to exercise general supervision over the extension education policies and programmes of the University in the area of Agriculture and allied disciplines.

(2) The Extension Education Council shall consist of the following members, namely:—

- (i) the Vice-Chancellor—Chairman;
- (ii) Director of Research—Member;
- (iii) Director of Education—Member;
- (iv) all Deans of the colleges of the University—Members;
- (v) Nominee of the State Governments not below the rank of Director—Members;
- (vi) two farmers representatives and one woman social worker to be nominated by the Vice-Chancellor for a term of three years—Members;



(vii) two eminent scientists from outside the University to be nominated by the Vice-Chancellor for two years—Members;

(viii) Director of Extension Education—Member-Secretary.

(3) The Extension Education Council shall meet at least once in a year.

(4) One-third members of the Extension Education Council shall form a quorum for the meeting of the Extension Education Council.

*Application of the Central Civil Services (Pension) Rules, 1972, etc.:*

45. (1) All regular employees of the University shall be governed by the provisions of the Central Civil Services (Pension) Rules, 1972, and the General Provident Fund (Central Services) Rules, 1960, in respect of grant of Pension and Gratuity and General Provident Fund.

(2) Any amendment made by the Government of India in the Central Civil Services (Pension) Rules, 1972, and the General Provident Fund (Central Services) Rules, 1960, shall also be applicable to employees of the University.

(3) In respect of commutation of pension, with any amendments there to the provisions of the Central Civil Services (Commutation of Pension) Rules, 1981, shall apply.

(4) The Vice-Chancellor shall be the pension sanctioning authority and the pension authorisation authority.

(5) Pension payment shall be centralised and controlled by Comptroller's office.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTHI,**  
Additional Chief Secretary to Government.

Government Central Press, Gandhinagar.





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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII] SATURDAY, NOVEMBER 5, 2016/KARTIKA 14, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department  
Sachivalaya, Gandhinagar, 5<sup>th</sup> November, 2016.

No. RPB/267-2016/Act.34-16-E:— The following Act of Parliament is republished for general Information :-

#### GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 27<sup>th</sup> July, 2016. Saraawan 5, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 26<sup>th</sup> July, 2016 is hereby published for general information :-

#### THE INDIAN TRUSTS (AMENDMENT) ACT, 2016

[ACT No. 34 of 2016]

[26<sup>th</sup> July, 2016]

AN

ACT

*further to amend the Indian Trusts Act, 1882.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Trusts (Amendment) Act, 2016.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2 of 1882.

2. For section 20 of the Indian Trusts Act, 1882 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Substitution of new section for section 20.

'20. Where the trust-property consists of money and cannot be applied immediately or at an early date to the purposes of the trust, the trustee shall, subject to any direction contained in the instrument of trust, invest the money in any of the securities or class of securities expressly authorised by the instrument of trust or as specified by the Central Government, by notification in the Official Gazette:

Investment of trust money.

Provided that where there is a person competent to contract and entitled in possession to receive the income of the trust-property for his life, or for any greater estate, no investment in any of the securities or class of securities mentioned above shall be made without his consent in writing.



*Explanation.*—For the purposes of this section, the expression "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.

Amendment of section 20A. 3. In section 20A of the principal Act, in sub-section (1), the proviso shall be omitted.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

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Vol. LVII ] MONDAY, NOVEMBER 7, 2016/KARTIKA 16, 1938

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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 07<sup>th</sup> November, 2016.

No. RPB/268-2016/Act.35-16-E:— The following Act of Parliament is republished for general Information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 30<sup>th</sup> July, 2016. Saraawan 8, 1938 (Saka)

The following Act of Parliament has received the assent of the President on the 29<sup>th</sup> July, 2016 is hereby published for general information :-

#### THE CHILD LABOUR (PROHIBITION AND REGULATION) AMENDMENT ACT, 2016

[ACT No. 35 of 2016]

[29<sup>th</sup> July, 2016]

AN  
ACT

*further to amend the Child Labour (Prohibition and Regulation) Act, 1986.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1.(1) This Act may be called the Child Labour (Prohibition and Regulation) Amendment Act, 2016. Short title and commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

61 of 1986

2. In the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:— Amendment of long title.

"An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto."



Amendment  
of short title.

3. In section 1 of the principal Act, in sub-section (1), for the words, brackets and figures "the Child Labour (Prohibition and Regulation) Act, 1986", the words, brackets and figures "the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986" shall be substituted.

61 of 1986.

Amendment  
of section 2.

4. In section 2 of the principal Act,—

(a) clause (i) shall be renumbered as clause (ia) thereof and before clause (ia) as so renumbered, the following clause shall be inserted, namely:—

“(i) “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year;”;

(b) for clause (ii), the following clause shall be substituted, namely:—

“(ii) “child” means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more;”.

35 of 2009.

Substitution  
of new  
section for  
section 3.

5. For section 3 of the principal Act, the following section shall be substituted, namely:—

Prohibition of  
employment  
of children in  
any occupa-  
tion and  
process.

“3. (1) No child shall be employed or permitted to work in any occupation or process.

(2) Nothing in sub-section (1) shall apply where the child,—

(a) helps his family or family enterprise, which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations;

(b) works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, as may be prescribed:

Provided that no such work under this clause shall effect the school education of the child.

*Explanation.*—For the purposes of this section, the expression,

(a) “family” in relation to a child, means his mother, father, brother, sister and father’s sister and brother and mother’s sister and brother;

(b) “family enterprise” means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons;

(c) “artist” means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports person or in such other activity as may be prescribed relating to the entertainment or sports activities falling under clause (b) of sub-section (2).”.

Insertion of  
new section  
3A.

6. After section 3 of the principal Act, the following section shall be inserted, namely:—

Prohibition of  
employment  
of adolescents  
in certain  
hazardous  
occupations  
and processes.

“3A. No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule:

Provided that the Central Government may, by notification, specify the nature of the non-hazardous work to which an adolescent may be permitted to work under this Act.”.



7. In section 4 of the principal Act, for the words "add any occupation or process to the Schedule", the words "add to, or, omit from, the Schedule any hazardous occupation or process" shall be substituted. Amendment of section 4.
8. In section 5 of the principal Act,—  
 (i) in the marginal heading, for the words "Child Labour Technical Advisory Committee", the words "Technical Advisory Committee" shall be substituted;  
 (ii) in sub-section (1), for the words "Child Labour Technical Advisory Committee", the words "Technical Advisory Committee" shall be substituted. Amendment of section 5.
9. In the heading of Part III of the principal Act, for "CHILDREN" substitute "ADOLESCENTS." Amendment of Part III.
10. In section 6 of the principal Act, for the word and figure "section 3", the word, figure and letter "section 3A" shall be substituted. Amendment of section 6.
11. In section 7 of the principal Act, for the word "child", wherever it occurs, the word "adolescent" shall be substituted. Amendment of section 7.
12. In section 8 of the principal Act, for the word "child", the word "adolescent" shall be substituted. Amendment of section 8.
13. In section 9 of the principal Act, for the word "child", at both the places, where it occurs, the word "adolescent" shall be substituted. Amendment of section 9.
14. In section 10 of the principal Act, for the word "child", at both the places, where it occurs, the word "adolescent" shall be substituted. Amendment of section 10.
15. In section 11 of the principal Act,—  
 (a) for the word "children", the word "adolescent" shall be substituted.  
 (b) for the word "child", wherever it occurs the word "adolescent" shall be substituted. Amendment of section 11.
16. In section 12 of the principal Act,—  
 (a) in the marginal heading, for the words and figures "sections 3 and 14" the words, figures and letter "sections 3A and 14" shall be substituted;  
 (b) for the words and figures "sections 3 and 14", the words, figures and letter "sections 3A and 14" shall be substituted. Amendment of section 12.
17. In section 13 of the principal Act, for the word "children", wherever it occurs, the word "adolescent" shall be substituted. Amendment of section 13.
18. In section 14 of the principal Act,—  
 (a) for sub-section (1), the following sub-sections shall be substituted, namely:—  
 "(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:  
 Provided that the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.  
 (1A) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:



Provided that the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3A.

(1B) Notwithstanding anything contained in sub-sections (1) and (1A) the parents or guardians of any child or adolescent referred to in section 3 or section 3A, shall not be liable for punishment, in case of the first offence."

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Whoever, having been convicted of an offence under section 3 or section 3A commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years.

(2A) Notwithstanding anything contained in sub-section (2), the parents or guardian having been convicted of an offence under section 3 or section 3A, commits a like offence afterwards, he shall be punishable with a fine which may extend to ten thousand rupees."

(c) clauses (a), (b) and (c) of sub-section (3) shall be omitted.

19. After section 14 of the principal Act, the following sections shall be inserted, namely:—

Insertion of  
new sections  
14A, 14B,  
14C and 14D.

Offences to be  
Cognizable.

"14A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed by an employer and punishable under section 3 or section 3A shall be cognizable.

2 of 1974.

Child and  
Adolescent  
Labour  
Rehabilitation  
Fund.

14B. (1) The appropriate Government shall constitute a Fund in every district or for two or more districts to be called the Child and Adolescent Labour Rehabilitation Fund to which the amount of the fine realized from the employer of the child and adolescent, within the jurisdiction of such district or districts, shall be credited.

(2) The appropriate Government shall credit an amount of fifteen thousand rupees to the Fund for each child or adolescent for whom the fine amount has been credited under sub-section (1).

(3) The amount credited to the Fund under sub-sections (1) and (2) shall be deposited in such banks or invested in such manner, as the appropriate Government may decide.

(4) The amount deposited or invested, as the case may be under sub-section (3), and the interest accrued on it, shall be paid to the child or adolescent in whose favour such amount is credited, in such manner as may be prescribed.

*Explanation.*— For the purposes of appropriate Government, the Central Government shall include the Administrator or the Lieutenant Governor of a Union territory under article 239A of the Constitution.

Rehabilita-  
tion of  
rescued child  
or adolescent.

14C. The child or adolescent, who is employed in contravention of the provisions of this Act and rescued, shall be rehabilitated in accordance with the laws for the time being in force.

Compounding  
of offences.

14D. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Magistrate may, on the application of the accused person, compound any offence committed for the first time by him, under sub-section (3) of section 14 or any offence committed by an accused person being parent or a guardian, in such manner and on payment of such amount to the appropriate Government, as may be prescribed.

2 of 1974.



(2) If the accused fails to pay such amount for composition of the offence, then, the proceedings shall be continued against such person in accordance with the provisions of this Act.

(3) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(4) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought in writing, to the notice of the Court in which the prosecution is pending and on the approval of the composition of the offence being given, the person against whom the offence is so compounded, shall be discharged."

20. After section 17, the following sections shall be inserted, namely:—

Insertion of  
new sections  
17A and 17B.

"17A. The appropriate Government may confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

District  
Magistrate to  
implement  
the  
provisions.

17B. The appropriate Government shall make or cause to be made periodic inspection of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out at such intervals as it thinks fit, and monitor the issues, relating to the provisions of this Act."

Inspection  
and monitor-  
ing.

21. In section 18 of the principal Act, in sub-section (2),—

Amendment  
of section 18.

(i) clause (a) shall be relettered as clause (b) thereof and before clause (b), as so relettered, the following clause shall be inserted, namely:—

(a) the conditions and the safety measures under clause (b) of sub-section (2) and other activities under clause (b) to *Explanation* of sub-section (2) of section 3;

(ii) in clause (b), as so relettered, for the words "Child Labour Technical Advisory Committee", the words "Technical Advisory Committee" shall be substituted.

(iii) clauses (b), (c) and (d) shall be relettered as clauses (c), (d) and (e) thereof and in clause (c) as so relettered, for the word "child", the word "adolescent" shall be substituted;

(iv) after clause (e), as so relettered, the following clauses shall be inserted, namely:—

"(f) the manner of payment of amount to the child or adolescent under sub-section (4) of section 14B;

(g) the manner of composition of the offence and payment of amount to the appropriate Government under sub-section (1) of section section 14D;

(h) the powers to be exercised and the duties to be performed by the officer specified and the local limits within which such powers or duties shall be carried out under section 17A."



Substitution  
of new  
Schedule for  
the Schedule:

22. In the principal Act, for the Schedule, the following Schedule shall be substituted,  
namely:—

**'THE SCHEDULE**

(See section 3A)

- (1) Mines;
- (2) Inflammable substances or explosives.
- (3) Hazardous process.

*Explanation.*—For the purposes of this Schedule, “hazardous process” has the meaning assigned to it in clause (cb) of the Factories Act, 1948.’.

63 of 1948.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

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#### PART - VI

#### Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 07<sup>th</sup> November, 2016.

No. RPB/268-2016/Act.36-16-E:— The following Act of Parliament is republished for general Information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 30<sup>th</sup> July, 2016. Saraawan 8, 1938 (Saka)

The following Act of Parliament has received the assent of the President on the 29<sup>th</sup> July, 2016 is hereby published for general information :-

#### THE REGIONAL CENTRE FOR BIOTECHNOLOGY ACT, 2016

[ACT No. 36 of 2016]

[29<sup>th</sup> July, 2016]

AN

ACT

*to provide for the establishment of an institution of national importance to be known as  
Regional Centre for Biotechnology and to provide for matters connected  
therewith or incidental thereto.*

WHEREAS an agreement for the establishment and operation of the Regional Centre for Biotechnology Training and Education in India was entered into between the Government of India and the United Nations Educational, Scientific and Cultural Organisation on the 14th day of July, 2006;

AND WHEREAS in pursuance of the said agreement, the Central Government through an executive order dated the 20th April. 2009. established the Regional Centre for Biotechnology Training and Education at Faridabad. Haryana;

AND WHEREAS it is expedient to make provisions for strengthening and to make the Regional Centre for Biotechnology an institution of national importance for imparting education, training and conducting research in the areas of Biotechnology and related multi disciplinary areas.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Regional Centre for Biotechnology Act, 2016.

Short title and  
commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.



## Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “academic staff” means Assistant Professors, Associate Professors, Professors, Deans, Sub-Deans, Executive Director and such other persons, including Visiting Professors, Professors of Eminence, Honorary Professors, Adjunct Professors and Emeritus Professors, as may be appointed or engaged for imparting education, training or conducting research in the Regional Centre for Biotechnology;

(b) “Board” means the Board of Governors constituted under section 14;

(c) “Board of Studies” means the Board of Studies of the Regional Centre referred to in section 21;

(d) “Chairperson” means the Chairperson of the Board;

(e) “employee” means any person appointed by the Regional Centre and includes officers, academic and other staff of the Regional Centre;

(f) “Executive Committee” means the Executive Committee of the Regional Centre constituted under section 18;

(g) “Executive Director” means the Executive Director of the Regional Centre appointed under sub-section (1) of section 23;

(h) “existing Regional Centre” means the Regional Centre for Biotechnology Training and Education at National Capital Region, Faridabad;

(i) “hall” means a unit of residence, by whatever name called, for the students of the Regional Centre, maintained or recognised by it;

(j) “institution” includes autonomous organisations within or outside India, for imparting education, training and conducting research in the areas of Biotechnology and supported by the Government of India or industry or universities or other organisations;

(k) “Ordinances” means the Ordinances framed by the Programme Advisory Committee under section 42;

(l) “Programme Advisory Committee” means the Programme Advisory Committee of the Regional Centre constituted under section 17;

(m) “region” means the region comprising the territories of South Asian Association for Regional Co-operation (SAARC) States and generally the Asia region;

(n) “Regional Centre” means the Regional Centre for Biotechnology established under section 3;

(o) “Regulations” means the Regulations made by any authority of the Regional Centre under section 43;

(p) “Statutes” means the Statutes framed by the Board under section 41;

(q) “UNESCO” means the United Nations Educational, Scientific and Cultural Organisation.

Establishment  
and incorpo-  
ration of  
Regional  
Centre for  
Biotechnology.

3. (1) The Regional Centre for Biotechnology Training and Education at National Capital Region, Faridabad, Haryana functioning under the Department of Biotechnology, Ministry of Science and Technology is hereby established as a body corporate by the name of “Regional Centre for Biotechnology” having perpetual succession and a common seal with power, subject to the provisions of this Act, to contract and shall, by the said name, sue or be sued.

(2) The Regional Centre shall consist of a Board of Governors and authorities specified in section 13.



(3) The headquarters of the Regional Centre shall be at its campus in the National Capital Region, Faridabad.

4. Whereas the objects of the institution known as the Regional Centre for Biotechnology are such as to make the institution one of national importance, it is hereby declared that the institution known as the Regional Centre for Biotechnology is an institution of national importance.

Declaration of Regional Centre for Biotechnology as an institution of national importance.

5. (1) On and from the date of commencement of this Act,—

Effect of establishment of Regional Centre.

(a) any reference to the existing Regional Centre in any law, other than this Act, or in any contract or other instrument, shall be deemed as a reference to the Regional Centre;

(b) all properties and assets, movable and immovable, of, or belonging to the existing Regional Centre shall vest in the Regional Centre;

(c) all rights and liabilities of the existing Regional Centre shall be transferred to, and be the rights and liabilities of, the Regional Centre;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for, the existing Regional Centre immediately before the said date, for or in connection with the purposes of the said Regional Centre shall be deemed to have incurred, entered into or engaged to be done by, with or for, the Regional Centre;

(e) all sums of money due to the existing Regional Centre immediately before that date shall be deemed to be due to the Regional Centre;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Regional Centre immediately before that date may be continued or may be instituted by or against the Regional Centre;

(g) every employee (including those appointed for imparting instruction or giving training or conducting research in the existing Regional Centre), holding any office under the existing Regional Centre or teaching therein immediately before the commencement of this Act shall hold his office in the Regional Centre or continue teaching therein by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if this Act had not been enacted and shall continue to do so as an employee of the Regional Centre or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Regional Centre within such period.

14 of 1947.

(2) Notwithstanding anything in the Industrial Disputes Act, 1947 or in any other law for the time being in force, absorption of any employee by the Regional Centre in its regular service under this section shall not entitle such employee to any compensation under that Act or any other law and no such claim shall be entertained by any court, tribunal or other authority.

6. The jurisdiction of the Regional Centre shall extend to whole of India and to such centres and specialised laboratories or other units for research, development and instruction, established by the Regional Centre within or outside India.

Jurisdiction.

7. The objectives of the Regional Centre shall be—

Objectives of Regional Centre.

(a) to disseminate and to advance knowledge by providing instructional and research facilities in such branches of biotechnology and related fields as it may deem fit including technology policy development;



(b) to provide capacity-building through education, training, research and development in biotechnology and related academic fields for sustainable development objectives through regional and international cooperation;

(c) to facilitate transfer of knowledge and technology relating to biotechnology at the regional level;

(d) to create a hub of biotechnology expertise and to address human resources needs in the countries in the region;

(e) to promote and strengthen international co-operation to improve the social and economic conditions and welfare of the people;

(f) to promote and facilitate a network of satellite centres in the region as well as within India.

Functions of  
Regional  
Centre.

8. The functions of the Regional Centre, shall be—

(a) to establish infrastructure and technology platforms which are directly relevant to biotechnology education, training and research;

(b) to execute educational and training activities including grant of degrees in education and research in biotechnology and related fields;

(c) to produce human resource tailored to drive innovation in biotechnology, particularly in areas of new opportunities and to fill talent gap in deficient areas;

(d) to undertake research and development and scientific investigations in collaboration with relevant research centre's in the region;

(e) to hold scientific symposia and conferences within India or in the region or outside the region and to conduct short-term and long-term training courses and workshops in all areas of biotechnology;

(f) to collect universally available information with a view to setting up data banks for bio-information;

(g) to collect and disseminate, through networking, the relevant local knowledge in the field of biotechnology, ensuring protection of intellectual property rights of local stakeholder communities;

(h) to develop and implement a policy for intellectual property rights which is equitable and just to the stakeholders involved in research in the Regional Centre;

(i) to disseminate the outcome of research activities in different countries through the publication of books and articles;

(j) to promote collaborative research and development networking programme in specific areas of biotechnology with national, regional and international networks and promote exchange of scientists, at the regional level having regard to issues pertaining to intellectual property rights of collaborating institutions promoting equitable sharing of benefits with collaborating institutions.

Regional  
Centre to  
work in  
collaboration  
with other  
institutions  
of UNESCO.  
Powers of  
Regional  
Centre.

9. The Regional Centre shall pursue its objects and discharge its functions in close collaboration with other national, regional and international institutions of the UNESCO.

10. (1) The Regional Centre shall have the following powers, namely:—

(a) to provide for masters degree (including integrated programmes leading to masters degree), post-graduate diploma and doctoral degrees in biotechnology and related subjects at the interface of varied disciplines including physical, chemical,



biological, medical, agricultural and engineering and other relevant sciences, as may be determined by the Regional Centre, from time to time;

(b) to provide for short-term and long-term training courses in biotechnology on specific issues related to the development, extension, implementation and regulation of biotechnology and related areas, as may be specified by Statutes, from time to time;

(c) to organise and undertake extramural studies, training and extension services in biotechnology;

(d) to confer honorary degrees or other academic distinctions referred to in clause (a), in the manner specified by the Statutes;

(e) to institute Professorships, Associate Professorships, Assistant Professorships and other academic positions required by the Regional Centre and to appoint persons to such Professorships, Associate Professorships, Assistant Professorships or other academic positions;

(f) to recognise an institution of higher learning within India for the purposes of this Act and to withdraw such recognition in accordance with the norms laid down in the Statutes;

(g) to appoint persons working in any other institution, including those located outside the country, as academic staff of the Regional Centre for such period as may be specified by the Statutes;

(h) to create administrative, technical and other posts and to make appointments thereto, as may be specified by Statutes;

(i) to co-operate or collaborate or associate with any institution, including those located outside the country, in such manner as may be specified and for such purposes as may be determined or agreed upon by the Regional Centre;

(j) to establish and maintain centres and specialised laboratories or other units for research, development and instruction in India or outside India, as may be determined by the Statutes from time to time;

(k) to institute and award fellowships, scholarships, studentships, medals and prizes as may be specified by the Statutes;

(l) to make provision for research and advisory services and for that purpose to enter into such agreements with other institutions, industrial or other organisations, including those located outside the country as may be specified by the Statutes;

(m) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other stakeholders;

(n) to appoint visiting Professors, Professors of Eminence, Honorary Professors, Adjunct Professors, Emeritus Professors, Consultants and such other persons who may contribute to the advancement and objects of the Regional Centre;

(o) to determine standards of admission to the Regional Centre, including examination, evaluation or any other method of testing;

(p) to fix, demand and receive payment of fees and other charges;

(q) to establish, recognise, maintain and manage halls or residences of students of the Regional Centre and other accommodation for students and to withdraw any such recognition;

(r) to lay down conditions of service of all categories of employees, including their code of conduct;



(s) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the Regional Centre to be necessary;

(t) to make arrangements for promoting the health and general welfare of the students and employees of the Regional Centre;

(u) to receive benefactions, donations and gifts and to acquire, hold and manage, and dispose of, with the prior approval of the Central Government, any property, movable or immovable, including trust and endowment properties, for the purposes or objectives of the Regional Centre;

(v) to borrow money, with the prior approval of the Central Government on the security of the property of the Regional Centre; and

(w) to do all such other acts and things as may be necessary in furtherance of the objects specified in section 7.

(2) In exercising its powers under sub-section (1), it shall be the endeavour of the Regional Centre to maintain high standards of education, training and research and the Regional Centre shall, among other measures which may be necessary for the said purpose, take, in particular, the following measures, namely:—

(a) conduct innovative courses and programmes of studies with a provision for periodic review and restructuring; and

(b) promote e-governance with an effective management information system.

Regional  
Centre open  
to all castes,  
creed, race or  
class.

11. The Regional Centre or any institution recognised by it shall be open to persons of either sex and whatever caste, creed, race, ethnicity, nationality or class, and it shall not be lawful for the Regional Centre or such institution to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a member of the academic staff of the Regional Centre or such institution or to hold any other office therein or to be admitted as a student in the Regional Centre or such institution or to enjoy or exercise any privilege thereof.

Privileges and  
immunities of  
Regional  
Centre.

12. The Regional Centre or persons attending the meetings of the Regional Centre shall enjoy such privileges and immunities as the Central Government may grant, pursuant to agreement entered into between the UNESCO and the Government of India from time to time concerning the Regional Centre.

Authorities  
of Regional  
Centre.

13. The following shall be the authorities of the Regional Centre, namely:—

(i) the Board of Governors;

(ii) the Programme Advisory Committee;

(iii) the Executive Committee;

(iv) the Finance Committee;

(v) the Board of Studies; and

(vi) such other authorities as may be declared by the Statutes to be the authorities of the Regional Centre.

Board of  
Governors.

14. (1) There shall be a Board of Governors which shall be responsible for the governance of the Regional Centre.

(2) The Board shall be the apex body of the Regional Centre and shall consist of the following members, namely:—

(a) Secretary to the Government of India in the Ministry of Science and Technology, Department of Biotechnology—*ex officio* Chairperson;



(b) three eminent scientists in the relevant field not below the rank of Joint Secretary to the Government of India or equivalent, out of whom at least one shall be a woman, to be nominated by the Central Government—*ex officio* members;

(c) a representative of the Director-General of UNESCO;

(d) two representatives from amongst the other member States of UNESCO, who substantially contribute resources to the running of the Regional Centre, in such manner as may be specified by the Statutes—members.

(3) The Chairperson of the Programme Advisory Committee shall be a permanent invitee of the Board.

(4) The Executive Director of the Regional Centre shall be the Convenor of the meetings of the Board.

(5) The Chairperson shall ordinarily preside over the meetings of the Board.

(6) The Board shall meet at least once in a year and at such times as the Chairperson may decide in such manner as may be specified by the Statutes.

(7) The term of office of the members of the Board, other than *ex officio* members, shall be such as may be specified by the Statutes.

(8) Subject to the provisions of this Act and the Statutes and the Ordinances made thereunder, the Board may regulate its own procedure (including quorum) for the conduct of meetings and transacting business.

15. Subject to the provisions of this Act, the Board shall have the following powers and functions, namely:—

Powers and functions of Board.

(a) to approve the annual plan and budget of the Regional Centre;

(b) to review, from time to time, the broad policies and programmes of the Regional Centre, and to suggest measures for the improvement and development of the Regional Centre;

(c) to consider the annual report and the annual accounts of the Regional Centre and the audit report on such accounts;

(d) to study and approve the internal procedures, including financial procedure and staff regulations of the Regional Centre;

(e) to approve the organisational structure and number of academic staff and other employees at the Regional Centre;

(f) to convene special consultative sessions of its members, to which it may invite representatives of other interested countries and international organisations in order to obtain proposals for strengthening the scope of services of the Regional Centre;

(g) to carry out projects and activities relevant to the Regional Centre, and to expand the fund-raising strategy and capabilities; and

(h) to frame the Statutes.

16. (1) The Chairperson shall exercise such powers and discharge such functions as may be delegated to him by the Board or as may be specified by the Statutes.

Powers and functions of Chairperson.

(2) If for any reason, the Chairperson is unable to attend any meeting of the Board, any member of the Board nominated by the Chairperson shall preside over the meeting.

17. (1) The Programme Advisory Committee shall be the principal academic body of the Regional Centre and shall, subject to the provisions of this Act, advice planning, execution, review and monitoring of the scientific and academic programmes of the Regional Centre.

Programme Advisory Committee.



(2) The Programme Advisory Committee shall consist of the following members, namely:—

- (a) a Chairperson of the Programme Advisory Committee to be nominated by the Board;
- (b) two members to be nominated by the UNESCO;
- (c) three members to be nominated by rotation, from amongst the member States of UNESCO which provide maximum financial assistance;
- (d) two members having expertise and experience in biotechnology policy and legal matters to be nominated by the Central Government;
- (e) six members from amongst the persons being renowned scientist or academicians, to be nominated by the Board.

(3) The Executive Director shall be the Member-Secretary, *ex officio*, to the Programme Advisory Committee.

(4) The Programme Advisory Committee shall be responsible for—

- (a) making recommendations on matters of planning and coordinating of the education, training and research activities;
- (b) recommending modifications or revision of education, training and research programmes of the Regional Centre and submitting reports thereon;
- (c) reviewing annually the programmes of the Regional Centre, evaluating its progress and submitting the reports thereon;
- (d) publishing reports on any matter concerning scientific and technical issues referred to it by the Board or by the Executive Director;
- (e) performing all such duties and to do all such acts as may be necessary for furtherance of education, training and research under this Act;
- (f) framing the Ordinances; and
- (g) performing such other functions as may be specified by the Statutes.

(5) The fees and allowances payable to members of the Programme Advisory Committee and their term of office shall be such as may be specified by the Statutes.

(6) Subject to the provisions of this Act and the Statutes and Ordinances made thereunder, the Programme Advisory Committee may regulate its own procedure (including quorum) for the conduct of meetings and transacting of its business:

Provided that the Programme Advisory Committee shall place the minutes of its meetings before the Board of Governors.

Executive  
Committee.

18. (1) The Executive Committee shall be responsible for management of the Regional Centre and implementation of policies and decisions of the Board relating to management.

(2) The constitution, powers and functions of the Executive Committee and the term of office of its members shall be such as may be specified by the Statutes.

Finance  
Committee.

19. (1) The Finance Committee shall review finances, consider the annual budget estimates, the statements of accounts and the audit reports and make recommendations thereon, to the Board.

(2) The constitution, powers and functions of the Finance Committee and the term of office of its members shall be such as may be specified by the Statutes.



20. The constitution, powers and functions of other authorities referred to in clause (vi) of section 13, and the term of office of its members shall be such as may be specified by the Statutes.

Other  
authorities of  
Regional  
Centre.

21. The constitution, powers and functions of the Board of Studies and the term of office of its members shall be such as may be specified by the Statutes.

Board of  
Studies.

22. The following shall be the officers of the Regional Centre, namely:—

Officers of  
Regional  
Centre.

(i) Executive Director;

(ii) Deans;

(iii) Sub-Deans;

(iv) Associate Director (Administration);

(v) Registrar;

(vi) Finance Officer; and

(vii) such other officers as may be declared by the Statutes to be the officers of the Regional Centre.

23. (1) The Executive Director shall be appointed on the recommendation of the Board in such manner and on such terms and conditions of service, as may be specified by the Statutes.

Executive  
Director.

(2) The Executive Director shall—

(a) be the principal executive and academic officer of the Regional Centre;

(b) direct the work of the Regional Centre in conformity with the programmes and directives established by the Board;

(c) propose the draft work plan and budget to be submitted to the Board;

(d) prepare the agenda for the sessions of the Board;

(e) prepare reports on the Regional Centre's activities for submission to the Board; and

(f) exercise such other powers and perform such other functions as may be specified by the Statutes.

(3) The financial powers delegated to the Executive Director by the Board shall be such as may be specified by the Statutes.

(4) The Executive Director may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the Regional Centre by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter.

24. The Deans and Sub-Deans shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be specified by the Statutes.

Deans and  
Sub-Deans.

25. (1) The Associate Director (Administration) shall be appointed in such manner, and on such terms and conditions of service, as may be specified by the Statutes.

Associate  
Director  
(Administra-  
tion).

(2) The Associate Director (Administration) shall have the power to enter into agreements, sign documents and authenticate records on behalf of the Regional Centre and shall exercise such powers and perform such duties, as may be specified by the Statutes.



- Registrar.** 26. The Registrar shall be appointed in such manner and on such terms and conditions of service and shall exercise such powers and perform such duties, as may be specified by the Statutes.
- Finance officer.** 27. The Finance officer shall be appointed in such manner and on such terms and conditions of service and shall exercise such powers and perform such duties, as may be specified by the Statutes.
- Other officers.** 28. The manner of appointment and powers and duties and terms and conditions of service of other officers of the Regional Centre, referred to in clause (vii) of section 22, shall be such as may be specified by the Statutes.
- Grants and loans to Regional Centre.** 29. The Central Government may, after due appropriation made by Parliament by law, in this behalf, make to the Regional Centre grants and loans of such sums of money and in such manner as that Government may consider necessary for being utilised for the fulfilment of the objects and purposes of this Act.
- Fund of Regional Centre.** 30. (1) The Regional Centre shall maintain a Fund to which shall be credited—  
 (a) all moneys provided by the Central Government;  
 (b) all fees and other charges received by the Regional Centre;  
 (c) all moneys received by the Regional Centre by way of grants, gifts, donations, benefactions, bequests or transfers; and  
 (d) all moneys received by the Regional Centre in any other manner or from any other source.  
 (2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Regional Centre may, with the approval of the Central Government, decide.  
 (3) The fund shall be applied for meeting—  
 (a) the fees and allowances payable to the Chairperson and members of the Board or Chairperson of the Programme Advisory Committee and members of the other committees and the salaries, allowances and other remunerations payable to the academic staff, officers and other employees of the Regional Centre;  
 (b) the expenses of the Regional Centre in the discharge of its functions and for the fulfilment of its objects and for purposes as envisaged under this Act.
- Annual report.** 31. (1) The annual report of the Regional Centre shall be prepared under the directions of the Executive Director, which shall include, among other matters, the steps taken by the Regional Centre towards the fulfilment of its objectives and shall be submitted to the Board on or before such date as may be specified by the Statutes and the Board shall consider the report in its annual meeting.  
 (2) A copy of the annual report, as prepared under sub-section (1), shall be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.
- Annual accounts.** 32. (1) The annual accounts and the balance sheet of the Regional Centre shall be prepared under the directions of the Board and shall, once at least every year, and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India.  
 (2) A copy of the accounts together with the audit report shall be submitted to the Central Government along with the observations, if any, of the Board.  
 (3) A copy of the annual report and annual accounts together with the audit report, shall be submitted to the Central Government which shall, as soon as may be, cause the same to be laid before each House of Parliament.



(4) The audited annual accounts, after having been laid before both Houses of Parliament, shall be published in the Official Gazette.

33. The Regional Centre shall furnish to the Central Government such returns or other information with respect to its property or activities as the Central Government may, from time to time, require, within such period as may be specified by the Central Government.

Returns and information.

34. (1) There shall be a review of the functioning of the Regional Centre once in every four years by persons of eminence to be appointed by the Central Government.

Review of functioning of Regional Centre.

(2) The Regional Centre shall meet the expenses for conducting the review under sub-section (1) and upon receipt of the report of such review, the Board may take appropriate action.

(3) In addition to the review under sub-section (1), the Board may conduct review of functioning of administrative and academic wings of the Regional Centre, in such manner and at such intervals, as may be specified by the Statutes.

35. (1) All appointments of employees of the Regional Centre shall be made in accordance with the procedure laid down in the Statutes, by—

Appointment and conditions of service of employees of Regional Centre.

(a) the Board of Governors for the Executive Director, Deans and Sub-Deans;

(b) the Executive Director, in any other case.

(2) The terms and conditions of service of the employees of the Regional Centre, other than the officers referred to in clause (vii) of section 22, shall be such as may be specified by the Statutes.

(3) The terms and conditions of service of the academic staff shall be consistent with such staff engaged in higher education and research at Central Universities.

36. The meetings of the Board, Programme Advisory Committee, Executive Committee or other committees constituted by the Regional Centre may be held using contemporary tools of information and communication technologies (including video conferencing) without the members necessarily having to be physically present.

Meetings.

37. All casual vacancies among the members (other than *ex officio* members) of the authorities under section 13 shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority for the residue of the term for which the person whose place he fills would have been a member.

Filling of casual vacancies.

38. No act or proceedings of any authority of the Regional Centre shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Proceedings of authorities not invalidated by vacancies.

39. No suit or other legal proceedings shall lie against any officer or employee of the Regional Centre for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or the Statutes, Ordinances or the Regulations made thereunder.

Protection of action taken in good faith.

40. Any dispute arising between the Regional Centre and any of its employees shall, at the first instance, be resolved through such grievance redressal mechanism as may be specified by the Statutes.

Arbitration.

41. (1) The Statutes of the Regional Centre shall be framed by the Board of Governors.

Power to make Statutes.

(2) Without prejudice to the provisions contained in sub-section (1), the Executive Committee may make recommendations for framing of Statutes to the Board.



(3) Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) to provide for short-term and long-term training courses in biotechnology on specific issues related to the development, extension, implementation and regulation of biotechnology and related areas, from time to time under clause (b) of sub-section (1) of section 10;

(b) the manner of conferring honorary degrees or other distinctions under clause (d) of sub-section (1) of section 10;

(c) the norms for recognition of an institution of higher learning within India and to withdraw such recognition under clause (f) of sub-section (1) of section 10;

(d) period for appointment of persons working in any other institution, including those located outside the country, as academic staff of the Regional Centre under clause (g) of sub-section (1) of section 10;

(e) to create administrative, technical and other posts under clause (h) of sub-section (1) of section 10;

(f) the manner and purposes of co-operation or collaboration or association with any institution, including those located outside the country, under clause (i) of sub-section (1) of section 10;

(g) to establish and maintain centres and specialised laboratories or other units for research, development and instruction in India or outside India, clause (j) of sub-section (1) of section 10;

(h) to institute and award fellowships, scholarships, studentships, medals and prizes, under clause (k) of sub-section (1) of section 10;

(i) the manner of entering into agreements with other institutions, industrial or other organisations, including those located outside the country, for research and advisory services under clause (l) of sub-section (1) of section 10;

(j) to declare other authorities to be the authorities of the Regional Centre under clause (vi) of section 13;

(k) the manner of appointment of representatives from amongst the member States of UNESCO, under clause (d) of sub-section (2) of section 14;

(l) the time and manner in which the Board shall meet under sub-section (5) of section 14;

(m) the term of office of the members of the Board, under sub-section (6) of section 14;

(n) such other powers and functions of the Chairperson under sub-section (1) of section 16;

(o) such other functions of the Programme Advisory Committee under clause (g) of sub-section (4) of section 17;

(p) the fees and allowances payable to members of the Programme Advisory Committee and their term of office under sub-section (5) of section 17;

(q) the constitution, powers and functions and the term of office of members of the Executive Committee under sub-section (2) of section 18;

(r) the constitution, powers and functions and term of office of members of the Finance Committee under sub-section (2) of section 19;

(s) the constitution, powers and functions and term of office of members of other authorities under section 20;



- (t) the constitution, powers and functions and term of office of members of the Board of Studies under section 21;
- (u) the other officers as may be declared to be the officers of the Regional Centre under clause (vii) of section 22;
- (v) the manner of appointment and terms and conditions of service of the Executive Director under sub-section (1) of section 23;
- (w) the other powers and functions of the Executive Director under clause (f) of sub-section (2) of section 23;
- (x) the financial powers to be delegated to the Executive Director by the Board under sub-section (3) of section 23;
- (y) the manner of appointment, terms and conditions of service and powers and duties of the Deans and Sub-Deans under section 24;
- (z) the manner of appointment and terms and conditions of service of the Associate Director (Administration) under sub-section (1) and powers and duties to be performed by him under sub-section (2) of section 25;
- (za) the manner of appointment, terms and conditions of service and powers and duties of the Registrar under section 26;
- (zb) the manner of appointment, terms and conditions of service and powers and duties of the Finance officer under section 27;
- (zc) the manner of appointment, powers and duties and terms and conditions of service of other officers of the Regional Centre under section 28;
- (zd) the time for submission of the annual report of the Regional Centre to the Board under sub-section (1) of section 31;
- (ze) the manner and frequency of conducting review of the functioning of administrative and academic wings of the Regional Centre by the Board under sub-section (3) of section 34;
- (zf) the procedure for appointment of employees of the Regional Centre under sub-section (1) and their terms and conditions of service under sub-section (2) of section 35;
- (zg) the grievance redressal mechanism for resolution of disputes arising between the Regional Centre and any of its employees under section 40;
- (zh) the manner of making regulations by the authorities of the Regional Centre under section 43; and
- (zi) any other matter which may be required or necessary for the purposes of this Act.

42. (1) Save as otherwise provided in this Act, the Ordinances of the Regional Centre shall be made by the Programme Advisory Committee.

Power to  
make  
Ordinances.

(2) Subject to the provisions of this Act and the Statutes made thereunder, the Ordinances of the Regional Centre may provide for all or any of the following matters, namely:—

- (a) admission of students from within India and from the region to the Regional Centre and their enrolment as such;
- (b) the course of study;



(c) the conditions under which students shall be admitted to the examinations of the Regional Centre and shall be eligible for degrees, diplomas and certificates;

(d) the conditions for award of fellowships, scholarships, medals and prizes;

(e) the conditions and manner of appointment, term and duties of examining bodies, examiners and moderators;

(f) the conduct of examinations;

(g) the conditions of residence of students of the Regional Centre;

(h) the maintenance of discipline among the employees and students;

(i) the courses of study to be laid down for all degrees, diplomas and certificates of the Regional Centre including the medium of instruction and examination;

(j) the award of degrees and other academic distinctions, and the manner of granting and obtaining of the same;

(k) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(l) the fees to be charged for courses of study and for admission to examinations, degrees and diplomas of the Regional Centre;

(m) the special arrangements, if any, which may be made for the residence and teaching of women students and prescribing of special courses of studies for them;

(n) the establishment, management, recognition and abolition of centres of studies, schools, departments, specialised laboratories, halls and institutions; and

(o) any other matter which by this Act or the Statutes, is to be, or may be, provided for by the Ordinances.

Regulations.

43. The authorities of the Regional Centre may make Regulations, consistent with the provisions of this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner specified by the Statutes.

Statutes,  
Ordinances  
and  
Regulations  
to be  
published in  
the Official  
Gazette and  
to be laid  
before  
Parliament.

44. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute or Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute or Ordinance or Regulation or both Houses agree that the Statute or Ordinance or Regulation should not be made, the Statute or Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute or Ordinance or Regulation.

Power to  
make Statutes  
or Ordinances  
or Regula-  
tions  
retrospec-  
tively.

45. The power to make Statutes or Ordinances or Regulations under section 41 or section 42 or section 43, as the case may be, shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes or Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statutes or Ordinances or Regulations so as to prejudicially affect the interests of any person to whom such Statutes or Ordinances or Regulations may be applicable.



46. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to  
remove  
difficulties.

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII ] WEDNESDAY, NOVEMBER 9, 2016/KARTIKA 18, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 09<sup>th</sup> November, 2016.

No. RPB/268-2016/Act.37-16-E:— The following Act of Parliament is republished for general Information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 30<sup>th</sup> July, 2016. Saraawan 8, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 29<sup>th</sup> July, 2016 is hereby published for general information :-

#### THE LOKPAL AND LOKAYUKTAS (AMENDMENT) ACT, 2016

[ACT No. 37 of 2016]

[29<sup>th</sup> July, 2016]

AN

ACT

*to amend the Lokpal and Lokayuktas Act, 2013.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Lokpal and Lokayuktas (Amendment) Act, 2016.

Short title and  
commencement.

(2) It shall be deemed to have come into force on the 16th day of January, 2014.

1 of 2014.

2. On and from the date of commencement of the Lokpal and Lokayuktas Act, 2013 (hereinafter referred to as the principal Act), for section 44, the following section shall be substituted, and shall be deemed to have been substituted, namely:—

Amendment of  
section 44.

"44. On and from the date of commencement of this Act, every public servant shall make a declaration of his assets and liabilities in such form and manner as may be prescribed."

Declaration of  
assets.



Amendment of  
section 59.

3. On and from the date of commencement of the principal Act, in section 59, in sub-section (2), for clause (k), the following clause shall be substituted, and shall be deemed to have been substituted, namely:—

"(k) the form and manner of declaration of assets and liabilities by public servants under section 44:

Provided that the rules may be made under this clause retrospectively from the date on which the provisions of this Act came into force;"

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.





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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 9<sup>th</sup> November, 2016.

No. RPB/269-2016/Act.-38-2016-E:— The following Act of Parliament is republished for general Information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 3<sup>rd</sup> August, 2016/Shraawan 12, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 3<sup>rd</sup> August, 2016 is hereby published for general information:-

THE COMPENSATORY AFFORESTATION FUND ACT, 2016

(ACT No. 38 of 2016)

AN  
ACT

[3<sup>rd</sup> August, 2016]

to provide for the establishment of funds under the public accounts of India and the public accounts of each State and crediting thereto the monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value and all other amounts recovered from such agencies under the Forest (Conservation) Act, 1980; constitution of an authority at national level and at each of the State and Union territory Administration for administration of the funds and to utilise the monies so collected for undertaking artificial regeneration (plantations), assisted natural regeneration, protection of forests, forest related infrastructure development. Green India Programme, wildlife protection and other related activities and for matters connected therewith or incidental thereto.

WHEREAS the Supreme Court in its order in T.N.Godavarman Thirumulpad vs. Union of India and Others [Writ Petition (Civil) No. 202 of 1995], dated the 30th October, 2002, observed that a Compensatory Afforestation Fund be created in which all the monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of the diverted forest land or catchment area treatment plan shall be deposited;



AND WHEREAS it had also been observed that the money received from the user agencies in cases where forest land diverted falls within protected areas, that is, the areas notified under the Wild Life (Protection) Act, 1972 for undertaking activities related to protection of biodiversity or wildlife shall also be deposited in the Fund; 35 of 1972.

AND WHEREAS the Supreme Court has directed that, besides artificial regeneration (Plantations), the Fund shall also be utilised for undertaking assisted natural regeneration, protection of forests, infrastructure development, wildlife protection and other related activities and an independent system of concurrent monitoring and evaluation should be evolved and implemented through the Compensatory Afforestation Fund to ensure effective and proper utilisation of funds;

AND WHEREAS the Supreme Court in its judgment dated 26th September, 2005 in the said Writ Petition observed that the Fund generated for protecting ecology and providing regeneration should not be treated as a Fund under article 266 and article 283 of the Constitution;

AND WHEREAS in its direction dated the 5th May, 2006, the Supreme Court had directed that since the Government has not constituted a Compensatory Afforestation Fund Management and Planning Authority (hereinafter referred to as Authority), an *ad hoc* Authority should be constituted till the Compensatory Afforestation Fund Management and Planning Authority becomes operational and directed to centrally pool the money recovered on behalf of the said Authority lying in the States and Union territories into the *ad hoc* Compensatory Afforestation Fund Management and Planning Authority;

AND WHEREAS Central Government formulated guidelines dated the 2nd July, 2009 on the subject of State Authority for utilisation of funds lying with the *ad hoc* Authority;

AND WHEREAS in its direction dated the 10th July, 2009, the Supreme Court had directed that the guidelines and structure of the State Authority prepared by the Central Government may be notified and implemented;

AND WHEREAS in its directions dated the 10th July, 2009, the Supreme Court further directed that till an alternative system is put in place, after obtaining permission from the Supreme Court, the money towards compensatory afforestation, net present value and protected areas (national parks, wildlife sanctuaries) shall continue to be deposited in the *ad hoc* Authority;

AND WHEREAS in compliance of the directions of the Supreme Court including its order dated the 5th May, 2006, over rupees thirty eight thousand crores as collected by the State Governments and Union territory Administrations have been placed under the *ad hoc* Authority, and deposited in the nationalised banks;

AND WHEREAS absence of permanent institutional mechanism for utilisation of funds collected by the State Governments and Union territory Administrations is the main reason for accumulation of huge unspent funds in the *ad hoc* Authority;

NOW, THEREFORE, based on the above orders, directions and observations of the Supreme Court to ensure safety, security and expeditious utilisation in a transparent manner of funds accumulated with the *ad hoc* Authority and the funds to be collected by the State Governments and Union territory Administrations, it is proposed to create a National Compensatory Afforestation Fund and a National Compensatory Afforestation Fund Management and Planning Authority at the national level, and a State Compensatory Afforestation Fund and a State Compensatory Afforestation Fund Management and Planning Authority in each State and Union territory, by an Act of Parliament.



BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Compensatory Afforestation Fund Act, 2016.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “*ad hoc* Authority” means the *ad hoc* Compensatory Afforestation Fund Management and Planning Authority constituted under the order dated the 5th May, 2006 of the Supreme Court in T.N. Godavarman Thirumulpad vs. Union of India and Others, [Writ Petition (Civil) No. 202 of 1995];

(b) “Chairperson, National Authority” means the Chairperson of the governing body of the National Authority;

(c) “Chairperson, State Authority” means the Chairperson of the governing body of the State Authority;

(d) “compensatory afforestation” means afforestation done in lieu of the diversion of forest land for non-forestry use under the Forest (Conservation) Act, 1980;

69 of 1980.

(e) “environmental services” includes—

(i) provision of goods such as wood, non-timber forest products, fuel, fodder, water and provision of services such as grazing, tourism, wildlife protection and life support;

(ii) regulating services such as flood moderation, carbon sequestration and health of soil, air and water regimes;

(iii) supporting such other services necessary for the production of ecosystem services, biodiversity, nutrient cycling and primary production including pollination and seed dispersal;

(f) “Head of the regional office” means the senior-most officer appointed by the Central Government at regional office to deal with the forest conservation matters under the Forest (Conservation) Act, 1980;

69 of 1980.

(g) “monitoring group” means a group of experts to monitor the activities undertaken from amounts released from the National Fund and State Fund constituted under sub-section (3) of section 9;

(h) “National Authority” means National Compensatory Afforestation Fund Management and Planning Authority constituted under section 8;

(i) “National Fund” means the National Compensatory Afforestation Fund established under sub-section (1) of section 3;

(j) “net present value” means the quantification of the environmental services provided for the forest area diverted for non-forestry uses, as may be determined by an expert committee appointed by the Central Government from time to time in this regard;

(k) “penal compensatory afforestation” means afforestation work to be undertaken over and above the compensatory afforestation specified in the guidelines issued under the Forest (Conservation) Act, 1980, in lieu of the extent of area over which non-forestry activities have been carried out without obtaining prior approval of the competent authority under the Forest (Conservation) Act, 1980;

69 of 1980.



(l) "prescribed" means prescribed by rules made by the Central Government in consultation with the State Governments under this Act;

(m) "State Authority" means the State Compensatory Afforestation Fund Management and Planning Authority constituted under section 10;

(n) "State Fund" means the State Compensatory Afforestation Fund established by each State under sub-section (1) of section 4;

(o) "State Government" includes Union territory Administration;

(p) "user agency" means any person, organisation or company or department of the Central Government or State Government making a request for diversion or de-notification of forest land for non-forest purpose or using forest land for non-forest purpose in accordance with the provisions contained in the Forest (Conservation) Act, 1980 and the rules made and guidelines issued, thereunder.

69 of 1980.

## CHAPTER II

### ESTABLISHMENT, MANAGEMENT AND UTILISATION OF NATIONAL COMPENSATORY AFFORESTATION FUND AND STATE COMPENSATORY AFFORESTATION FUNDS

Establishment  
of National  
Fund.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a special Fund to be called the "National Compensatory Afforestation Fund" under the public account of India.

(2) The National Fund shall be under the control of the Central Government and managed by the National Authority in such manner as may be prescribed.

(3) On the date of establishment of the National Fund, all monies collected by the State Governments and Union territory Administrations which has been placed under the *ad hoc* Authority and deposited in the nationalised banks shall be transferred to the National Fund.

(4) There shall also be credited into the National Fund, by each State on yearly basis, ten per cent. of the funds realised from the user agencies in respect of the forest land diverted in their favour, which have been credited directly into the State Fund.

(5) There shall also be credited to the National Fund—

(a) grants-in-aid received, if any, by the National Authority;

(b) any loan taken or any borrowings made by the National Authority;

(c) any other sums received by the National Authority by way of benefaction, gift or donations.

(6) The monies received in the National Fund shall be an interest bearing fund under public accounts of India.

(7) The balance in the National Fund shall be non-lapsable and get interest as per the rate declared by the Central Government on year to year basis.

Establishment  
of State Fund.

4. (1) With effect from such date as each State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a special Fund to be called the "State Compensatory Afforestation Fund-..... (name of State)" under public accounts of such State:

Provided that in case of Union territory having no legislature, such fund shall be established under the public account of Union of India with effect from such date as the Union territory Administration may, by notification in the Official Gazette, appoint in this behalf.

(2) The State Fund in each State shall be under the control of the State Government of such State and managed by the State Authority of such State, in such manner as may be prescribed.

(3) There shall be credited into the State Fund of a State—

(i) the unspent balance of all monies which has been transferred by *ad hoc* Authority to the State Compensatory Afforestation Funds



Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009;

(ii) all monies transferable from the National Fund under clause (a) of section 5;

(iii) all monies realised from user agencies by such State towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value, catchment area treatment plan or any money for compliance of conditions stipulated by the Central Government while according approval under the provisions of the Forest (Conservation) Act, 1980; and

69 of 1980.

(iv) the funds recoverable from user agencies by such State in cases where forest land diverted falls within the protected areas, that is, areas notified under sections 18, 26A or 35 of the Wild Life (Protection) Act, 1972 for undertaking activities relating to the protection of biodiversity and wildlife.

53 of 1972.

(4) A State Government may also credit to the State Fund constituted by it—

(i) grants-in-aid received, if any, by the State Authority;

(ii) any loan taken or any borrowings made by the State Authority;

(iii) any other sums received by the State Authority by way of benefaction, gift or donations.

(5) The monies received in the State Fund shall be an interest bearing fund under public accounts.

(6) The balance in each State Fund shall be non-lapsable and get interest as per the rate declared by the Central Government on year to year basis.

5. Save as otherwise provided in this Act, the monies available in the National Fund shall be disbursed and utilised in the following manner, namely:—

Disbursement  
and utilisation  
of National  
Fund.

(a) ninety per cent. of the all monies collected by a State, which has been placed under the *ad hoc* Authority and the interest accrued thereon, shall be transferred to the State Fund established in such state under sub-section (1) of section 4;

(b) the balance ten per cent. of all monies collected by the States and Union territory Administrations, which has been placed under the *ad hoc* Authority and the interest accrued thereon, and all fresh accrual to the National Fund, as provided in sub-section (4) of section 3, and the interest accrued thereon, shall be utilised for meeting—

(i) the non-recurring and recurring expenditure for the management of the National Authority including the salary and allowances payable to its officers and other employees;

(ii) the expenditure incurred on monitoring and evaluation of works executed by the National Authority and each State Authority;

(iii) the expenditure incurred on specific schemes approved by governing body of the National Authority.

*Explanation.*—For the purposes of this section, “scheme” includes any institute, society, centre of excellence in the field of forest and wildlife, pilot schemes, standardisation of codes and guidelines and such other related activities for the forestry and wildlife sector.

6. Save as otherwise provided in this Act, the monies available in a State Fund shall be disbursed and utilised in the following manner, namely:—

Disbursement  
and  
utilisation of  
State Fund.

(a) the money received for compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, catchment area treatment plan and



for any other site specific scheme may be used as per site-specific schemes submitted by the State along with the approved proposals for diversion of forest land under the Forest (Conservation) Act, 1980;

69 of 1980.

(b) the monies received towards net present value and penal net present value shall be used for artificial regeneration (plantation), assisted natural regeneration, forest management, forest protection, forest and wildlife related infrastructure development, wildlife protection and management, supply of wood and other forest produce saving devices and other allied activities in the manner as may be prescribed;

(c) the interest accrued on funds available in a State Fund and the interest accrued on all monies collected by the State Governments, which has been placed under the *ad hoc* Authority and deposited in the nationalised banks, in compliance of the directions of the Supreme Court dated the 5th May, 2006, shall be used for conservation and development of forest and wildlife in the manner as may be prescribed;

(d) all monies realised from the user agencies in accordance with the decision taken by the Standing Committee of the National Board for Wild Life constituted under section 5A of the Wild Life (Protection) Act, 1972 or the orders of the Supreme Court involving cases of diversion of forest land in protected areas shall form the corpus and the income therefrom shall be used exclusively for undertaking protection and conservation activities in protected areas of the State including facilitating voluntary relocation from such protected areas and in exceptional circumstance, a part of the corpus may also be used subject to prior approval of the National Authority;

35 of 1972.

(e) ten per cent. of amount realised from the user agencies, which has been credited directly into the State Fund in a year shall be transferred to the National Fund to meet expenditure as provided in clause (b) of section 5;

(f) the non-recurring and recurring expenditure for the management of a State Authority including the salary and allowances payable to its officers and other employees may be met from a part of the interest accrued on the amounts available in the State Fund, in the manner as may be prescribed;

(g) in case of trans-boundary forestry or environmental implication of diversion of forest land for non-forest purposes in a particular State, if found expedient and necessary by the National Authority, it may, in consultation with the concerned State Authorities order that such sum as may be justified for reparation of the trans-boundary effects, be transferred to State Fund of such State or States;

(h) State Authority shall release monies to agencies identified for execution of activities in pre-determined installments as per the annual plan of operation finalised by steering committee of such State Authority and executive committee of the National Authority.

Accounting procedure.

7. The accounting procedure to regulate the manner of crediting the monies to the National Fund and State Fund in a year shall be in such manner as may be prescribed.

### CHAPTER III

#### CONSTITUTION OF NATIONAL AUTHORITY AND STATE AUTHORITIES

Constitution of National Authority.

8. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a National Authority to be called the "National Compensatory Afforestation Fund Management and Planning Authority".

(2) The National Authority shall manage and utilise the National Fund for the purposes of this Act.

(3) The National Authority shall consist of a governing body and shall be assisted by an executive committee, monitoring group and administrative support mechanism.



(4) The governing body of the National Authority shall consist of the following, namely:—

(i) Minister for Environment, Forest and Climate Change, Government of India—Chairperson, *ex officio*;

(ii) Secretaries of Ministries dealing with Environment, Forest, Climate Change, Finance (Expenditure), Rural Development, Land Resources, Agriculture, Panchayati Raj, Tribal Development, Science, Technology, Space and Earth Sciences and Chief Executive Officer, National Institution for Transforming India Ayog, Government of India—Members, *ex officio*;

(iii) Director General of Forests and Special Secretary, Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(iv) Additional Director General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(v) Additional Director General of Forests (Wildlife), Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(vi) Mission Director, National Mission for a Green India, Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(vii) Financial Adviser, Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(viii) five Principal Chief Conservator of Forests, not more than one from each of the ten regions, to be nominated by the Ministry of Environment, Forest and Climate Change, Government of India on rotation basis for a period of two years, at a time—Members, *ex officio*;

(ix) Inspector General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(x) five experts, one each from environmentalists, conservationists, scientists, economists, and social scientists appointed by the Central Government for a period of two years subject to not more than two consecutive terms—Members.

(5) The Central Government may appoint an officer of the rank of an Additional Director General of Forests as the Chief Executive Officer of the National Authority who shall be the Member-Secretary of the governing body and the executive committee of the National Authority.

9. (1) The governing body of the National Authority shall, in performance of its functions and powers under the Act, be assisted by the executive committee and the monitoring group.

Executive committee and monitoring group of National Authority.

(2) The executive committee of the National Authority shall consist of the following, namely:—

(i) Director General of Forests and Special Secretary, Ministry of Environment, Forest and Climate Change, Government of India—Chairperson, *ex officio*;

(ii) Additional Director General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(iii) Additional Director General of Forests (Wildlife), Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(iv) Mission Director, National Mission for a Green India, Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;



(v) Financial Adviser, Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(vi) Head of all regional offices of the Ministry of Environment, Forest and Climate Change, Government of India—Members, *ex officio*;

(vii) Inspector General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change, Government of India—Member, *ex officio*;

(viii) a professional ecologist, not being from the Central Government, to be appointed by the Central Government—Member;

(ix) three experts, one each in the fields of forestry, tribal development, forest economy development, not being from the Central Government, to be appointed by the Central Government—Members;

(x) Chief Executive Officer of the National Authority—Member-Secretary.

(3) The monitoring group shall consist of six experts in the field of environment, economics, wildlife, forest, remote sensing and geographical information system and social sector and the Director General, Forest Survey of India, Ministry of Environment, Forest and Climate Change, Government of India.

(4) The following officers shall be appointed by the National Authority for a period not exceeding five years, to assist the executive committee in performance of its functions and powers under the Act, namely:—

(i) Joint Chief Executive Officer of the rank of Inspector General of Forests;

(ii) Financial Advisor and Chief Accounts Officer of the rank of Director in the Government of India; and

(iii) Deputy Chief Executive Officers of the rank of Deputy Inspector General of Forests

(5) The governing body of the National Authority may with the prior concurrence of the Central Government create posts in the National Authority at the level of Assistant Inspector General of Forests and other officials to assist the executive committee and monitoring group in performance of its functions under the Act.

Constitution  
of State  
Authority.

10. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a State Authority to be called the "State Compensatory Afforestation Fund Management and Planning Authority" in each State

(2) The Central Government may, if so desires, appoint different dates for constitution of State Authority in each of the States.

(3) The State Authority constituted in a State shall be responsible for the management of the State Fund of such State and its utilisation for the purposes of the Act.

(4) The State Authority shall consist of a governing body and shall be assisted by a steering committee and an executive committee.

(5) The governing body of a State Authority shall consist of the following, namely:—

(i) Chief Minister of the State and in case of a Union territory having no legislature, the Lieutenant Governor or the Administrator, as the case may be—Chairperson, *ex officio*;

(ii) Minister of Forests—Member, *ex officio*;

(iii) Chief Secretary—Member, *ex officio*;

(iv) Principal Secretaries of the Departments dealing with Environment, Finance, Planning, Rural Development, Revenue, Agriculture, Tribal Development, Panchayati Raj, Science and Technology—Members, *ex officio*;

(v) Principal Chief Conservator of Forests (Head of Forest Force)—Member, *ex officio*.

(vi) Chief Wildlife Warden—Member, *ex officio*;



(6) Principal Secretary in-charge of the Forest Department in a State shall be Member Secretary of the State Authority in such State.

(7) The State Government shall appoint an officer of the rank not below the rank of a Chief Conservator of Forests as the Chief Executive Officer of the State Authority who shall be the Member-Secretary of the steering committee and the executive committee of the State Authority.

11. (1) The governing body of the State Authority shall, in performance of its functions and powers under the Act, be assisted by the steering committee and the executive committee:

Steering committee and executive committee of State Authority.

(2) The steering committee of a State Authority shall consist of the following, namely:—

(i) Chief Secretary—Chairperson, *ex officio*;

(ii) Principal Secretaries of the Departments dealing with Forests, Environment, Finance, Planning, Rural Development, Revenue, Agriculture, Tribal Development, Panchayati Raj, Science and Technology—Members, *ex officio*;

(iii) Principal Chief Conservator of Forests (Head of Forest Force)—Member, *ex officio*;

(iv) Chief Wildlife Warden—Member, *ex officio*;

(v) Nodal Officer, the Forest (Conservation) Act, 1980—Member, *ex officio*;

(vi) Head of the concerned regional office of the Ministry of Environment, Forest and Climate Change—Member, *ex officio*;

(vii) Nodal Officer, State Forest Development Agency—Member, *ex officio*;

(viii) an expert on tribal matters or a representative of tribal communities to be appointed by the State Government—Member;

(ix) Chief Executive Officer, State Authority—Member-Secretary.

(3) The executive committee of a State Authority shall consist of the following, namely:—

(i) Principal Chief Conservator of Forests (Head of Forest Force)—Chairperson, *ex officio*;

(ii) Chief Wildlife Warden—Member, *ex officio*;

(iii) an officer not below the rank of a Chief Conservator of Forests dealing with forest and wildlife related schemes—Member, *ex officio*;

(iv) an officer not below the rank of a Chief Conservator of Forests dealing with forestry research—Member, *ex officio*;

(v) Nodal Officer, State Forest Development Agency—Member, *ex officio*;

(vi) a representative each of the Departments dealing with Environment, Finance, Planning, Rural Development, Revenue, Agriculture, Tribal Development, Panchayati Raj, Science and Technology—Members, *ex officio*;

(vii) Financial Controller or Financial Adviser, to be nominated by the Finance Department—Member, *ex officio*;

(viii) two eminent non-government organisations to be appointed by the State Government—Members;

(ix) two representatives of district level Panchayati Raj Institutions to be appointed by the State Government—Members;

(x) an expert on tribal matters or a representative of tribal community to be appointed by the State Government—Member;

(xi) Chief Executive Officer, State Authority—Member-Secretary.

(4) The State Authority may appoint the following officers for a period not exceeding five years, to assist the steering committee and executive committee in performance of its functions under the Act, namely:—



(i) Joint Chief Executive Officer of the rank not below the rank of a Conservator of Forests;

(ii) Financial Advisor and Chief Accounts Officer of the rank not below the rank of a Deputy Secretary in the State Government;

(iii) Deputy Chief Executive Officer of the rank not below the rank of a Deputy Conservator of Forests.

(5) The governing body of the State Authority may with the prior concurrence of the State Government create posts in the State Authority at the level of Assistant Conservator of Forests and other officials to assist the steering committee and executive committee in performance of its functions under the Act.

Term of office and conditions of service of members.

12. Save as otherwise provided in this Act, the terms of office and other conditions of the service of the members of the National Authority, executive committee, monitoring group, Chief Executive Officer and officials appointed by the National Authority, members of State Authority, steering committee and executive committee of each State Authority shall be such as may be prescribed.

Disqualifications.

13. A person shall be disqualified for being appointed as a member of the National Authority, executive committee of the National Authority, a State Authority, steering committee and executive committee of a State Authority, monitoring group, if he—

(i) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(ii) is an undischarged insolvent; or

(iii) is of unsound mind and stands so declared by the competent court; or

(iv) has been removed or dismissed from the service of the Government or organisation or undertaking owned by the Government; or

(v) has, in the opinion of the Central Government, such financial or other interest in the National Authority or the concerned State Authority as is likely to affect the duties discharged by him of his function as a member.

#### CHAPTER IV

##### POWERS AND FUNCTIONS OF NATIONAL AUTHORITY AND STATE AUTHORITIES

Powers and functions of National Authority.

14. (1) The governing body of the National Authority shall—

(i) formulate broad policy framework for functioning of the National Authority and State Authorities as may be notified by the Central Government;

(ii) approve the annual report and audited accounts of the National Authority;

(iii) review reports on decision taken by executive committee and monitoring group of the National Authority including investment decisions;

(iv) approve the proposal for the schemes specified in sub-clause (iii) of clause (b) of section 5;

(v) approve the proposals for creation of posts in the National Authority, subject to prior permission of the Central Government;

(vi) provide a mechanism to State Authorities to resolve issues of inter-State or Centre-State character;

(vii) formulate such procedures for delegation of financial and administrative powers to the National Authority and State Authorities as may be notified by the Central Government.

(2) The governing body of the National Authority shall meet at least once in six months.



(3) The governing body and executive committee of the National Authority and the monitoring group of the National Authority shall meet at such places and shall observe such rules and procedures in regard to transaction of business at its meeting, including the quorum thereat, as may be prescribed.

15. (b) The executive committee of the National Authority shall—

Powers and functions of executive committee of National Authority.

(i) approve within three months from the date of receipt, annual plan of operations of State Authorities, with such amendments as it deems fit and proper;

(ii) formulate proposals for schemes specified in sub-clause (iii) of clause (b) of section 5;

(iii) execute schemes specified in sub-clause (iii) of clause (b) of section 5;

(iv) deploy staff on contract or on deputation basis to the posts in the National Authority;

(v) formulate proposals for creation of posts in the National Authority at the level of Assistant Inspector General of Forests and other officers;

(vi) invest surplus amounts available in the National Fund;

(vii) execute other day-to-day work in respect of receipt of amounts in the National Fund;

(viii) maintain books of account and such other records;

(ix) facilitate scientific, technological and other assistance that may be required by State Authorities;

(x) present its decisions to the governing body of the National Authority for information;

(xi) maintain and update a public information system on the National Authority and present all information on its transaction in the public domain;

(xii) undertake any other work as may be assigned by the governing body of the National Authority or the Central Government, from time to time.

(2) The executive committee of the National Authority shall meet at least once in every three months.

16. (1) The monitoring group shall—

Functions of monitoring group.

(i) evolve independent system for concurrent monitoring and evaluation of the works implemented in the States and Union territories utilising the funds released by the National Authority and State Authorities to ensure effective and proper utilisation of funds by utilising the services of the regional offices, of the Central Government in the Ministry of Environment, Forest and Climate Change;

Provided that the Central Government may also undertake third party monitoring and evaluation of the works implemented in the States and Union territories utilising the funds released by the National Authority and State Authorities through individual and institutional experts including remote sensing agencies;

(ii) inspect and undertake financial audit of works executed by utilising the funds released by the National Authority and State Authorities in the State and Union territories;

(iii) devise measures for transparency and accountability.

(2) The monitoring group shall meet at least once in three months.

17. (1) The governing body of a State Authority shall—

Powers and functions of State Authority.

(i) lay down the broad policy framework for the functioning of such State Authority within the overall framework notified by the Central Government on the recommendations of the National Authority;



(ii) review the working of the State Authority from time to time.

(2) The governing body of a State Authority shall meet at least once in six months.

(3) The governing body, steering committee and executive committee of a State Authority shall meet at such places and shall observe such rules and procedures in regards to transaction of business at its meeting, including the quorum thereat, as may be prescribed.

Powers and functions of steering committee of State Authority.

18. (1) The steering committee of a State Authority shall—

(i) scrutinise and approve with such amendments as it may deem fit and proper the annual plan of operations prepared by the executive committee of such State Authority and send the same to the executive committee of the National Authority for final approval;

(ii) monitor the progress of the utilisation of funds released from the State Fund;

(iii) review reports on decision taken by executive committee including investment decisions;

(iv) approve, subject to prior concurrence of the State Government, proposals formulated by the executive committee for creation of posts in the State Authority;

(v) approve annual report of the State Authority and send the same to the State Government to lay it, each year, in each House of the State Legislature;

(vi) ensure inter-departmental coordination.

(2) The steering committee of a State Authority shall meet at least once in every three months.

Functions and powers of executive committee of State Authority.

19. (1) The executive committee of a State Authority shall—

(i) formulate and submit annual plan of operations to the steering committee of the State Authority for its concurrence;

(ii) undertake qualitative and quantitative supervision, monitoring and evaluation of the works being implemented from amounts available in the State Fund;

(iii) invest surplus amounts available in the State Fund of such State;

(iv) maintain books of account and other records;

(v) submit reports to the steering committee of the State Authority;

(vi) prepare annual report of the State Authority;

(vii) deploy staff on contractual basis or on deputation to the posts in the State Authority;

(viii) formulate proposals for creation of posts in the State Authority;

(ix) be responsible for delegation of financial or administrative powers;

(x) be responsible for other day-to-day working in respect of the State Authority;

(xi) maintain and update public information system on the State Authority and present all information on its transaction in the public domain;

(xii) undertake any other work as may be assigned by the governing body or steering committee of the State Authority or the State Government, from time to time.

(2) The executive committee of a State Authority shall meet at least once in every three months.

## CHAPTER V

### FINANCE, ACCOUNTS, AUDIT AND ANNUAL REPORT

Budget of National Authority.

20. (1) The National Authority shall prepare its budget for the next financial year, showing the estimated receipts and expenditure of the National Authority and forward the same to the Central Government, in such form and at such time in each financial year as may be prescribed.



(2) The National Authority, shall adopt financial regulation and procedures, in particular the procedure for drawing up and implementing the budget of the National Authority as may be prescribed.

21. The National Authority may invest its funds, including any reserve fund, in the securities of the Central Government and in scheduled banks in such manner as may be prescribed:

Investment of funds by National Authority.

Provided that the grants received from the Central Government shall not be invested and shall be utilised for the purposes and in the manner attached to it.

22. (1) The National Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Accounts and audit of National Authority.

(2) The accounts of the National Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any other person appointed by him in connection with the audit of the accounts of the National Authority shall have the same right and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the National Authority.

(4) The accounts of the National Authority as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the National Authority.

(5) The Comptroller and Auditor-General shall, within a period of six months from the date of commencement of the Act, audit the accounts of the all monies collected by the State Governments and Union territory Administrations, which has been placed under the *ad hoc* Authority and deposited in the nationalised banks and submit the report to the Central Government under this section.

(6) The Central Government shall have the power to conduct the special audit or performance audit of the National Fund and of the National Authority through the Comptroller and Auditor-General.

23. (1) The National Authority shall prepare, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government, in such form and at such time, for each financial year, as may be prescribed.

Annual report of National Authority.

(2) The annual report shall, *inter alia*, provide for—

(i) the summary of monitoring and evaluation of activities undertaken from amounts released from the National Fund and State Funds during the year;

(ii) the summary of specific schemes specified in sub-clause (iii) of clause (b) of section 5 executed during the year;

(iii) the amount of money received and expended.

24. The Central Government shall cause the annual report and audit report together with a memorandum of action taken on the recommendations contained therein to be laid as soon as may be after the reports are received before each House of Parliament.

Annual report and audit report of National Authority to be laid before Parliament.



Budget of  
State  
Authority.

25. (1) Each State Authority shall prepare its budget for the next financial year, showing the estimated receipts and expenditure of the State Authority and forward the same to the State Government, in such form and at such time, in each financial year, as may be prescribed.

(2) Each State Authority shall adopt financial regulation and procedures, in particular the procedure for drawing up and implementing the budget of the State Authority as may be prescribed.

Investment  
of funds by  
State  
Authority.

26. State Authority may invest funds available in the State Fund of such State in the securities of the Central Government and in scheduled banks in such manner as may be prescribed:

Provided that the grants received from the State Government shall not be invested and shall be utilised for the purpose and in the manner prescribed.

Accounts and  
audit of State  
Authority.

27. (1) Each State Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of each State Authority shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any other person appointed by him in connection with the audit of the accounts of the State Authority shall have the same right and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, other documents and papers and to inspect the office of the State Authority.

(4) The Accounts of the State Authority as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the State Government by the State Authority.

(5) The Comptroller and Auditor-General shall, within a period of six months from the date of commencement of the Act, audit the accounts of all the monies which have been transferred by the *ad hoc* Authority to the State Compensatory Afforestation Fund Management and Planning Authorities constituted in the States in compliance of guidelines dated the 2nd July, 2009 and submit the report to the State Government under this section.

(6) The Central Government and the State Government concerned shall have the power to conduct the special audit or performance audit of the State Fund and of the State Authority through the Comptroller and Auditor-General.

Annual report  
of State  
Authority.

28. (1) Each State Authority shall prepare its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the concerned State Government, in such form and at such time, for each financial year, as may be prescribed.

(2) The annual report of a State Authority shall, *inter alia*, provide for—

(i) the number and location of each reforestation, afforestation and conservation activity subject to the requirement of this section;

(ii) the amount and location of lands in hectares, cleared, conserved and planted in connection with the activity; and

(iii) the amount of afforestation money collected and expended.



29. The State Government shall cause the annual report and the audit report together with a memorandum of action taken on the recommendations contained therein to be laid as soon as may be after the reports are received before each House of the State Legislature:

Annual report and audit report of State Authority to be laid before State Legislature.

Provided that in case of a Union territory having no legislature, the Central Government shall cause the annual report and the audit report together with a memorandum of action taken on the recommendations contained therein to be laid as soon as may be after the reports are received before each House of the Parliament.

## CHAPTER VI

### MISCELLANEOUS

30. (1) The Central Government in consultation with the State Governments may, after previous publication, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the management of the National Fund by the National Authority under sub-section (2) of section 3;

(b) the management of State Fund by the State Authorities under sub-section (2) of section 4;

(c) the manner of using the money for purposes specified in clause (b) of section 6;

(d) the manner of utilising the money for purposes specified in clause (c) of section 6;

(e) the manner of payment of the salary and allowances payable to the officers and other employees of the State Authority under clause (f) of section 6;

(f) the accounting procedure regulating the manner of crediting the monies to the National Fund and State Funds under section 7;

(g) the terms of office and other conditions of the service of the members of the National Authority, executive committee, monitoring group, Chief Executive Officer and officials appointed by the National Authority, members of State Authority, steering committee and executive committee of each State Authority under section 12;

(h) the rules and procedures in respect of the transaction of business of the governing body and executive committee of the National Authority and monitoring group of the National Authority and the place of meeting, including the quorum under sub-section (3) of section 14;

(i) the rules and procedures in respect of the transaction of business of the governing body, steering committee and executive committee of a State Authority and the place of meeting, including the quorum under sub-section (3) of section 17;

(j) the preparation of the budget of the National Authority under sub-section (1) of section 20;

(k) the financial regulation and procedures, in particular the procedure for drawing up and implementing the budget of the National Authority under sub-section (2) of section 20;

(l) the investment of the funds of the National Authority under section 21;

(m) the maintenance of the accounts and other relevant records and preparation of an annual statement of accounts by the National Authority under sub-section (1) of section 22;

(n) the preparation of the annual report by the National Authority under sub-section (1) of section 23;

(o) the preparation of the budget of the State Authority under sub-section (1) of section 25;



(p) the financial regulation and procedures, in particular the procedure for drawing up and implementing the budget of the State Authorities under sub-section (2) of section 25;

(q) the investment of funds by the State Authorities under section 26;

(r) the maintenance of the accounts and other relevant records and preparation of annual statement of accounts by each State Authority under sub-section (1) of section 27;

(s) the preparation of the annual report by the State Authorities under sub-section (1) of section 28; and

(t) any other matter which is required to be, or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Transfer of  
assets,  
liabilities, etc.

31. (1) On and from the date of constitution of the National Authority—

(i) all the assets and liabilities of the *ad hoc* Authority shall stand transferred to, and vested in, the National Authority;

*Explanation.*—The assets of the *ad hoc* Authority shall be deemed to include all rights and powers, all properties, whether movable or immovable, including in particular, cash balances, deposits, and all other interests and rights in, or arising of, such properties as may be in the possession of the *ad hoc* Authority and all books of account and other documents relating to the same, and liabilities shall include all debts, liabilities and obligations of whatever kind;

(ii) without prejudice to the provisions of clause (i), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the *ad hoc* Authority immediately before constitution of the National Authority, for or in connection with the purpose of the *ad hoc* Authority, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the National Authority;

(iii) all sums of money due to the *ad hoc* Authority immediately before constitution of the National Authority shall be due to the National Authority;

(iv) all suits and legal proceedings instituted or which could have been instituted by or against the *ad hoc* Authority may be continued or may be instituted by or against the National Compensatory Authority.

(2) On and from the date of constitution of a State Authority—

(i) all the assets and liabilities of the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 shall stand transferred to, and vested in, the State Authority.

*Explanation.*—The assets of the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 shall be deemed to include all rights and powers, all properties, whether movable or immovable, including in particular, cash balances, deposits, and all other interests and rights in, or arising of, such properties as may be in the possession of the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 and all books of account and other documents relating to the same, and liabilities shall include all debts, liabilities and obligations of whatever kind;



(ii) without prejudice to the provisions of clause (i), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 before this Act came into force, for or in connection with the purpose of the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the State Authority;

(iii) all sums of money due to the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 before constitution of the State Authority shall be due to the State Authority;

(iv) all suits and legal proceedings instituted or which could have been instituted by or against the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 may be continued or may be instituted by or against the State Authority.

32. (1) Notwithstanding anything contained in any judgment, decree or order of any court, the amount credited to the National Fund shall be deemed to be credited and shall always be deemed to have been credited to the public account of India within the meaning of articles 266 and 283 of the Constitution, and it shall be regulated by law made by Parliament in this behalf.

Validation.

(2) Notwithstanding anything contained in any judgment or order of any court, all the monies collected by the State Governments and the Union territory Administrations which has been placed under the *ad hoc* Authority and deposited in the nationalised banks and the interest accrued thereon shall stand transferred to the National Fund.

(3) Notwithstanding anything contained in any judgment or any order of any court, the amount credited to the State Fund shall be deemed to be credited and shall always be deemed to have been credited to the public account of the State within the meaning of articles 266 and 283 of the Constitution, and it shall be regulated by law made by the State Legislature in this behalf.

33. (1) The Central Government may, if it finds necessary or expedient in the public interest, issue such policy directives to the National Authority or any State Authority, in writing and such policy directives shall be binding upon the National Authority or the State Authority, as the case may be.

Power of  
Central  
Government  
to issue  
directions.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

Sd/-  
**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-  
**C. J. GOTH,**  
Additional Chief Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII] THURSDAY, NOVEMBER 17, 2016/KARTIKA 26, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

#### Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department  
Sachivalaya, Gandhinagar, 17<sup>th</sup> November, 2016.

No. RPB/270-2016/Act.39-16-E:— The following Act of Parliament is republished for general Information :-

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
Legislative Department

New Delhi, the 05<sup>th</sup> August, 2016. Saraawan 14, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 04<sup>th</sup> August, 2016 is hereby published for general information :-

#### THE INDIAN MEDICAL COUNCIL (AMENDMENT) ACT, 2016

AN

ACT

[ACT No. 39 of 2016]

[4<sup>th</sup> August, 2016]

*further to amend the Indian Medical Council Act, 1956.*

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

- (1) This Act may be called the Indian Medical Council (Amendment) Act, 2016.
- (2) It shall be deemed to have come into force on 24th May, 2016.

Short title and  
commencement.

102 of 1956.

- After section 10C of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

Insertion of new  
section 10D.

"10D. There shall be conducted a uniform entrance examination to all medical educational institutions at the undergraduate level and post-graduate level through such designated authority in Hindi, English and such other languages and in such manner as may be prescribed and the designated authority shall ensure the conduct of uniform entrance examination in the aforesaid manner:

Uniform  
entrance  
examination for  
undergraduate  
and postgraduate  
level.

Provided that notwithstanding any judgment or order of any court, the provisions of this section shall not apply, in relation to the uniform entrance examination at the undergraduate level for the academic year 2016-17 conducted in accordance with any regulations made under this Act, in respect of the State Government seats (whether in Government Medical College or in a private Medical College) where such State has not opted for such examination."



Amendment of  
section 33.

3. In section 33 of the principal Act, after clause (ma), the following clause shall be inserted, namely:—

"(mb) the designated authority, other languages and the manner of conducting of uniform entrance examination to all medical educational institutions at the undergraduate level and post-graduate level;"

Repeat and  
savings

4. (1) The Indian Medical Council (Amendment) Ordinance, 2016 is hereby repealed.

Ord. 4 of 2016.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Medical Council Act, 1956 as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Act.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.





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New Delhi, the 05<sup>th</sup> August, 2016. Saraawan 14, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 04<sup>th</sup> August, 2016 is hereby published for general information :-

#### THE DENTISTS (AMENDMENT) ACT, 2016

[ACT No. 40 of 2016]

[4<sup>th</sup> August, 2016]

AN

ACT

*further to amend the Dentists Act, 1948.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1.(1) This Act may be called the Dentists (Amendment) Act, 2016.

Short title and commencement.

(2) It shall be deemed to have come into force on 24th May, 2016.

16 of 1948.

2. After section 10C of the Dentists Act, 1948 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

Insertion of new section 10D.

"10D. There shall be conducted a uniform entrance examination to all dental educational institutions at the undergraduate level and post-graduate level through such designated authority in Hindi, English and such other languages and in such manner as may be prescribed and the designated authority shall ensure the conduct of uniform entrance examination in the aforesaid manner:

Uniform entrance examination for undergraduate and postgraduate level.

Provided that notwithstanding any judgment or order of any court, the provisions of this section shall not apply, in relation to the uniform entrance examination at the undergraduate level for the academic year 2016-17 conducted in accordance with any regulations made under this Act, in respect of the State Government seats (whether in Government Dental College or in a private Dental College) where such State has not opted for such examination."



Amendment  
of section 20.

3. In section 20 of the principal Act, after clause (h), the following clause shall be inserted, namely:—

"(ha) the designated authority, other languages and the manner of conducting of uniform entrance examination to all dental educational institutions at the undergraduate level and post-graduate level;"

Repeal and  
savings.

4. (1) The Dentists (Amendment) Ordinance, 2016 is hereby repealed.

Ord 5 of  
2016.

(2) Notwithstanding such repeal, anything done or any action taken under the Dentists Act, 16 of 1948. 1948 as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Act.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.

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सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 28<sup>th</sup> November, 2016

No. RPB/271-2016/Act.41-16/E:— The following Act of Parliament is republished for general Information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 10<sup>th</sup> August, 2016, Shraawan 19, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 09<sup>th</sup> August, 2016 is hereby published for general information:-

#### THE INSTITUTE OF TECHNOLOGY (AMENDMENT) ACT, 2016

[ACT No.41 of 2016]

AN  
ACT

[9<sup>th</sup> August, 2016]

*further to amend the Institute of Technology Act, 1961.*

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows :-

1. (1) This Act may be called the Institutes of Technology (Amendment) Act, 2016. Short title and commencement.

(2) It Shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

59 of 1961.

2. In the Institute of Technology Act, 1961 (hereinafter referred to as the principal Act), in section 2, for the words and brackets "and the Indian Institute of Technology (Banaras Hindu University), Varanasi", the words and brackets "the Indian Institute of Technology (Banaras Hindu University), Varanasi, the Indian Institute of Technology, Tirupati" Amendment of section 2.



the Indian Institute of Technology, Palakkad, the Indian Institute of Technology, Goa, the Indian Institute of Technology, Dharwad, the Indian Institute of Technology, Bhilai, the Indian Institute of Technology, Jammu and the Indian Institute of Technology (Indian School of Mines), Dhanbad" shall be substituted.

Amendment  
of section 3.

3. In section 3 of the principal Act,—

(A) in clause (c), after sub-clause (xiii), the following sub-clauses shall be inserted, namely:—

“(xiv) in relation to the society known as the Indian Institute of Technology, Tirupati, the Indian Institute of Technology, Tirupati;

(xv) in relation to the society known as the Indian Institute of Technology, Palakkad, the Indian Institute of Technology, Palakkad;

(xvi) in relation to the society known as the Indian Institute of Technology, Goa, the Indian Institute of Technology, Goa;

(xvii) in relation to the society known as the Indian Institute of Technology, Dharwar, the Indian Institute of Technology, Dharwad;

(xviii) in relation to the society known as the Indian Institute of Technology, Bhilai, the Indian Institute of Technology, Bhilai;

(xix) in relation to the society known as the Indian Institute of Technology, Jammu, the Indian Institute of Technology, Jammu;

(xx) in relation to the society known as the Indian School of Mines, Dhanbad, the Indian Institute of Technology (Indian School of Mines), Dhanbad.”;

(B) after clause (ga), the following clause shall be inserted, namely:—

“(gb) “Indian School of Mines, Dhanbad” means the society known as the Indian School of Mines, Dhanbad;”;

(C) in clause (j), after sub-clause (xi), the following sub-clauses shall be inserted, namely:—

“(xii) the Indian Institute of Technology, Tirupati;

(xiii) the Indian Institute of Technology, Palakkad;

(xiv) the Indian Institute of Technology, Goa;

(xv) the Indian Institute of Technology, Dharwad;

(xvi) the Indian Institute of Technology, Bhilai;

(xvii) the Indian Institute of Technology, Jammu;

(xviii) the Indian School of Mines, Dhanbad.”.

Amendment  
of section 4.

4. In section 4 of the principal Act, after sub-section (ID), the following sub-section shall be inserted, namely:—

“(IE) The Indian School of Mines, Dhanbad shall, on such incorporation, be called the Indian Institute of Technology (Indian School of Mines), Dhanbad.”.

Amendment  
of section 5.

5. In section 5 of the principal Act, after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

“*Explanation 3*.—The reference in this section to the commencement of this Act shall be construed in relation to the Indian Institute of Technology, Tirupati, the Indian Institute of Technology, Palakkad, the Indian Institute of Technology, Goa, the Indian Institute of Technology, Dharwad, the Indian Institute of Technology, Bhilai,



the Indian Institute of Technology, Jammu, and the Indian Institute of Technology (Indian School of Mines) Dhanbad, as the reference to the date on which the provisions of the Institutes of Technology (Amendment) Act, 2016 comes into force.”.

Amendment  
of section 38.

6. In section 38 of the principal Act,—

(i) after clause (o), the following clauses shall be inserted, namely:—

“(p) until the first Statutes and Ordinances in relation to the Indian Institute of Technology, Tirupati, the Indian Institute of Technology, Palakkad, the Indian Institute of Technology, Goa, the Indian Institute of Technology, Dharwad, the Indian Institute of Technology, Bhilai, the Indian Institute of Technology, Jammu, are made under this Act, the Statutes and Ordinances of such Institutes, as in force immediately before the commencement of the Institutes of Technology (Amendment) Act, 2016, shall apply to those Institutes with necessary modifications and adaptations in so far as they are not inconsistent with the provisions of this Act;

(q) the Executive Board, referred to in Rule 7 of the Rules and Regulations of the Indian School of Mines, Dhanbad, functioning as such immediately before the commencement of the Institutes of Technology (Amendment) Act, 2016, shall continue to so function until a new Board is constituted for the Indian Institute of Technology (Indian School of Mines), Dhanbad, under this Act, but on the constitution of a new Board under this Act, the Executive Board of the Indian School of Mines, Dhanbad shall cease to function so far as the Indian Institute of Technology (Indian School of Mines), Dhanbad is concerned;

(r) the Academic Council, referred to in Rule 9 of the Rules and Regulations of the Indian School of Mines, Dhanbad, functioning as such immediately before the commencement of the Institutes of Technology (Amendment) Act, 2016 shall continue to so function until a new Senate is constituted for the Indian Institute of Technology (Indian School of Mines), Dhanbad under this Act, but on the constitution of a new Senate under this Act, the Academic Council of the Indian School of Mines, Dhanbad shall cease to function so far as the Indian Institute of Technology (Indian School of Mines), Dhanbad;

(s) until the first Statutes and the Ordinances in relation to the Indian Institute of Technology (Indian School of Mines), Dhanbad are made under this Act, the Statutes and Ordinances as are applicable to the Indian Institute of Technology, Roorkee immediately before the commencement of the Institutes of Technology (Amendment) Act, 2016, shall apply to the Indian Institute of Technology (Indian School of Mines), Dhanbad, with the necessary modifications and adaptations in so far as they are not inconsistent with the provisions of this Act;

(t) notwithstanding anything contained in the Institutes of Technology (Amendment) Act, 2016, any student who joined classes of the Indian School of Mines, Dhanbad on or after the commencement of 2015-2016 academic session or completed the courses on or after 2015-2016 academic session shall for the purpose of clause (b) of sub-section (1) of section 6, be deemed to have pursued a course of study in the Indian Institute of Technology (Indian School of Mines), Dhanbad provided that such student has not already been awarded degree or diploma for the same course of study;

(u) if any difficulty arises in giving effect to the provisions of the Institutes of Technology (Amendment) Act, 2016, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty;



Provided that no order shall be made under this clause after the expiry of two years from the commencement of the Institutes of Technology (Amendment) Act, 2016:

Provided further that every order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.”;

(b) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

“*Explanation 4*.—The reference in clauses (q), (r) and (s) of this section to the commencement of this Act shall be construed in relation to the Indian Institute of Technology (Indian School of Mines), Dhanbad, as the reference to the date on which the provisions of the Institutes of Technology (Amendment) Act, 2016 come into force.”.

Sd/-

**Dr. G. Narayana Raju,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. Gothi,**  
Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 9<sup>th</sup> December, 2016

No. RPB/271-2016/Act.42-16/E:— The following Act of Parliament is republished for general Information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 10<sup>th</sup> August, 2016, Shraawan 19, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 09<sup>th</sup> August, 2016 is hereby published for general information:-

#### THE NATIONAL INSTITUTES OF TECHNOLOGY, SCIENCE EDUCATION AND RESEARCH (AMENDMENT) ACT, 2016

(AS PASSED BY THE HOUSES OF PARLIAMENT)

[ACT No.42 of 2016]

AN

[9<sup>th</sup> August, 2016]

ACT

*further to amend the National Institutes of Technology, Science Education and Research Act, 2007.*

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows :-

1. (1) This Act may be called the National Institutes of Technology, Science Education and Research (Amendment) Act, 2016.

Short title and  
commencement.

(2) It Shall be deemed to have come into force on the 20th day of August, 2015.



1-2  
11

Amendment of  
First Schedule  
to Act 29 of  
2007.

2. In the First Schedule to the National Institutes of Technology, Science Education and Research Act, 2007, after serial number 30, the following serial number and the entries relating thereto shall be inserted, namely:-

(1)	(2)	(3)
"31.	National Institute of Technology, Andhra Pradesh	National Institute of Technology, Andhra Pradesh."

Sd/-

**Dr. G. Narayana Raju,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. Gothi,**  
Secretary to Government.

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## **PART - VI**

**Acts of Parliament and Ordinances promulgated by the President.**

### **Legislative and Parliamentary Affairs Department**

Sachivalaya, Gandhinagar, 13<sup>th</sup> December, 2016.

**No. RPB/272-2016/Act.-43-16-E:—** The following Act of Parliament is republished for general information:-

### **GOVERNMENT OF INDIA**

### **MINISTRY OF LAW AND JUSTICE**

### **Legislative Department**

New Delhi, the 11<sup>th</sup> August, 2016, Shraawan 20, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 10<sup>th</sup> August, 2016 is hereby published for general information:-

### **THE BENAMI TRANSACTIONS (PROHIBITION)**

### **AMENDMENT ACT, 2016**

[ ACT No. 43 of 2016 ]                      AN ACT                      [ 10<sup>th</sup> August, 2016 ]

*further to amend the Benami Transactions (Prohibition) Act, 1988.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the *Benami Transactions (Prohibition) Amendment Act, 2016.* Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.



Insertion of  
new heading  
before  
section 1.

2. In the *Benami* Transactions (Prohibition) Act, 1988 (hereinafter referred to as the principal Act), before section 1, the following heading shall be inserted, namely:—

45 of 1988.

“CHAPTER I

PRELIMINARY.”

Amendment  
of section 1.

3. In section 1 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) This Act may be called the Prohibition of *Benami* Property Transactions Act, 1988.”.

45 of 1988.

Substitution of  
new section  
for section 2.  
Definitions.

4. For section 2 of the principal Act, the following section shall be substituted, namely:—

“2. In this Act, unless the context otherwise requires,—

(1) “Adjudicating Authority” means the Adjudicating Authority appointed under section 7;

(2) “Administrator” means an Income-tax Officer as defined in clause (25) of section 2 of the Income-tax Act, 1961;

43 of 1961.

(3) “Appellate Tribunal” means the Appellate Tribunal established under section 30;

(4) “Approving Authority” means an Additional Commissioner or a Joint Commissioner as defined in clauses (1C) and (28C) respectively of section 2 of the Income-tax Act, 1961;

43, of 1961.

(5) “attachment” means the prohibition of transfer, conversion, disposition or movement of property, by an order issued under this Act;

(6) “authority” means an authority referred to in sub-section (1) of section 18;

(7) “banking company” means a company to which the provisions of the Banking Regulation Act, 1949, applies and includes any bank or banking institution referred to in section 51 of that Act;

10 of 1949.

(8) “*benami* property” means any property which is the subject matter of a *benami* transaction and also includes the proceeds from such property;

(9) “*benami* transaction” means,—

(A) a transaction or an arrangement—

(a) where a property is transferred to, or is held by, a person, and the consideration for such property has been provided, or paid by, another person; and

(b) the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration,

except when the property is held by—

(i) a *Karta*, or a member of a Hindu undivided family, as the case may be, and the property is held for his benefit or benefit of other members in the family and the consideration for such property has been provided or paid out of the known sources of the Hindu undivided family;

(ii) a person standing in a fiduciary capacity for the benefit of another person towards whom he stands in such capacity and includes a trustee, executor, partner, director of a company, a depository or a participant as an agent of a depository under the Depositories Act, 1996 and any other person as may be notified by the Central Government for this purpose;

22 of 1996.

(iii) any person being an individual in the name of his spouse or in the name of any child of such individual and the consideration for such



property has been provided or paid out of the known sources of the individual;

(iv) any person in the name of his brother or sister or lineal ascendant or descendant, where the names of brother or sister or lineal ascendant or descendant and the individual appear as joint-owners in any document, and the consideration for such property has been provided or paid out of the known sources of the individual; or

(B) a transaction or an arrangement in respect of a property carried out or made in a fictitious name; or

(C) a transaction or an arrangement in respect of a property where the owner of the property is not aware of, or, denies knowledge of, such ownership;

(D) a transaction or an arrangement in respect of a property where the person providing the consideration is not traceable or is fictitious;

*Explanation.*—For the removal of doubts, it is hereby declared that *benami* transaction shall not include any transaction involving the allowing of possession of any property to be taken or retained in part performance of a contract referred to in section 53A of the Transfer of Property Act, 1882, if, under any law for the time being in force,—

(i) consideration for such property has been provided by the person to whom possession of property has been allowed but the person who has granted possession thereof continues to hold ownership of such property;

(ii) stamp duty on such transaction or arrangement has been paid; and

(iii) the contract has been registered.

(10) "*benamidar*" means a person or a fictitious person, as the case may be, in whose name the *benami* property is transferred or held and includes a person who lends his name;

(11) "*Bench*" means a Bench of the Adjudicating Authority or the Appellate Tribunal, as the case may be;

(12) "*beneficial owner*" means a person, whether his identity is known or not, for whose benefit the *benami* property is held by a *benamidar*;

(13) "*Board*" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

(14) "*director*" shall have the same meaning as assigned to it in clause (34) of section 2 of the Companies Act, 2013;

(15) "*executor*" shall have the same meaning as assigned to it in clause (c) of section 2 of the Indian Succession Act, 1925;

(16) "*fair market value*", in relation to a property, means—

(i) the price that the property would ordinarily fetch on sale in the open market on the date of the transaction; and

(ii) where the price referred to in sub-clause (i) is not ascertainable, such price as may be determined in accordance with such manner as may be prescribed;

(17) "*firm*" shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932 and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;

(18) "*High Court*" means—

(i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and

4 of 1882.

54 of 1963.

18 of 2013.

39 of 1925.

9 of 1932.  
6 of 2009.



- (ii) where the Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain;
- (19) "Initiating Officer" means an Assistant Commissioner or a Deputy Commissioner as defined in clauses (9A) and (19A) respectively of section 2 of the Income-tax Act, 1961; 43 of 1961.
- (20) "Member" means the Chairperson or the Member of the Adjudicating Authority or the Appellate Tribunal, as the case may be;
- (21) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;
- (22) "partner" shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932, and shall include,— 9 of 1932.
- (a) any person who, being a minor, has been admitted to the benefits of partnership; and
- (b) a partner of a limited liability partnership formed and registered under the Limited Liability Partnership Act, 2008; 6 of 2009.
- (23) "partnership" shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932, and shall include a limited liability partnership formed and registered under the Limited Liability Partnership Act, 2008; 9 of 1932.
- (24) "person" shall include— 6 of 2009.
- (i) an individual;
- (ii) a Hindu undivided family;
- (iii) a company;
- (iv) a firm;
- (v) an association of persons or a body of individuals, whether incorporated or not;
- (vi) every artificial juridical person, not falling under sub-clauses (i) to (v);
- (25) "prescribed" means prescribed by rules made under this Act;
- (26) "property" means assets of any kind, whether movable or immovable, tangible or intangible, corporeal or incorporeal and includes any right or interest or legal documents or instruments evidencing title to or interest in the property and where the property is capable of conversion into some other form, then the property in the converted form and also includes the proceeds from the property;
- (27) "public financial institution" shall have the same meaning as assigned to it in clause (72) of section 2 of the Companies Act, 2013; 18 of 2013.
- (28) "Special Court" means a Court of Session designated as Special Court under sub-section (1) of section 50;
- (29) "transfer" includes sale, purchase or any other form of transfer of right, title, possession or lien;
- (30) "trustee" means the trustee as defined in the section 3 of the Indian Trusts Act, 1882; 2 of 1882.
- (31) words and expressions used herein and not defined in this Act but defined in the Indian Trusts Act, 1882, the Indian Succession Act, 1925, the Indian Partnership Act, 1932, the Income-tax Act, 1961, the Depositories Act, 1996, the Prevention of Money-Laundering Act, 2002, the Limited Liability Partnership Act, 2008 and the Companies Act, 2013, shall have the same meanings respectively assigned to them in those Acts.' 2 of 1882.  
39 of 1925.  
9 of 1932.  
43 of 1961.  
22 of 1996.  
15 of 2003.  
6 of 2009.  
18 of 2013.



5. Before section 3 of the principal Act, the following heading shall be inserted, namely:—

Insertion of new heading before section 3.

## "CHAPTER II

### PROHIBITION OF *BENAMI* TRANSACTIONS"

6. In section 3 of the principal Act,—

Amendment of section 3.

(a) sub-section (2) shall be omitted;

(b) sub-section (3) shall be renumbered as sub-section (2) thereof;

(c) after sub-section (2) as so renumbered, the following sub-section shall be inserted, namely:—

"(3) Whoever enters into any *benami* transaction on and after the date of commencement of the *Benami* Transactions (Prohibition) Amendment Act, 2016, shall, notwithstanding anything contained in sub-section (2), be punishable in accordance with the provisions contained in Chapter VII.";

(d) sub-section (4) shall be omitted.

7. In section 4 of the principal Act, sub-section (3) shall be omitted.

Amendment of section 4.

8. For sections 5 and 6 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 5 and 6.

"5. Any property, which is subject matter of *benami* transaction, shall be liable to be confiscated by the Central Government.

Property held *benami* liable to confiscation.

6. (1) No person, being a *benamidar* shall re-transfer the *benami* property held by him to the beneficial owner or any other person acting on his behalf.

Prohibition on re-transfer of property by *benamidar*.

(2) Where any property is re-transferred in contravention of the provisions of sub-section (1), the transaction of such property shall be deemed to be null and void.

(3) The provisions of sub-sections (1) and (2) shall not apply to a transfer made in accordance with the provisions of section 190 of the Finance Act, 2016."

28 of 2016.

9. After section 6 of the principal Act, the following shall be inserted, namely:—

Insertion of new Chapters III to VI.

## 'CHAPTER III

### AUTHORITIES

7. The Central Government shall, by notification, appoint one or more Adjudicating Authorities to exercise jurisdiction, powers and authority conferred by or under this Act.

Adjudicating Authority.

8. An Adjudicating Authority shall consist of a Chairperson and at least two other Members.

Composition of Authority.

9. (1) A person shall not be qualified for appointment as the Chairperson or a Member of the Adjudicating Authority unless he,—

Qualifications for appointment of Chairperson and Members.

(a) has been a member of the Indian Revenue Service and has held the post of Commissioner of Income-tax or equivalent post in that Service; or

(b) has been a member of the Indian Legal Service and has held the post of Joint Secretary or equivalent post in that Service.

(2) The Chairperson and other Members of the Adjudicating Authority shall be appointed by the Central Government in such manner as may be prescribed.

(3) The Central Government shall appoint the seniormost Member to be the Chairperson of the Adjudicating Authority.



Constitution  
of Benches of  
Adjudicating  
Authority.

10. (1) Subject to the provisions of this Act,—

(a) the jurisdiction of the Adjudicating Authority may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Adjudicating Authority with two Members, as the Chairperson may deem fit;

(c) the Benches of the Adjudicating Authority shall ordinarily sit in the National Capital Territory of Delhi and at such other places as the Central Government may, in consultation with the Chairperson, by notification, specify;

(d) the Central Government shall, by notification, specify the areas in relation to which each Bench of the Adjudicating Authority may exercise jurisdiction.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson may transfer a Member from one Bench to another Bench.

11. The Adjudicating Authority shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and; subject to the other provisions of this Act, the Authority shall have powers to regulate its own procedure.

5 of 1908.

12. The Chairperson and Members of the Adjudicating Authority shall hold office for a term not exceeding five years from the date on which they enter upon their office, or until they attain the age of sixty-two years, whichever is earlier and shall not be eligible for reappointment.

13. (1) The salary and allowances payable to, and the other terms and conditions of service of the Chairperson and other Members of the Adjudicating Authority shall be such as may be prescribed.

(2) Any vacancy caused to the office of the Chairperson or any other Member shall be filled up within a period of three months from the date on which such vacancy occurs.

14. (1) The Central Government may, by order, remove from office, the Chairperson or other Members of the Adjudicating Authority, if the Chairperson or such other Member, as the case may be,—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence, involving moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office is prejudicial to the public interest.

(2) No Chairperson or Member shall be removed from his office under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

15. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the seniormost Member shall act as the Chairperson of the Adjudicating Authority until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

Power of  
Adjudicating  
Authority to  
regulate its  
own  
procedure.

Term of  
office of  
Chairperson  
and Members  
of  
Adjudicating  
Authority.

Terms and  
conditions of  
services of  
Chairperson  
and Members  
of  
Adjudicating  
Authority.

Removal of  
Chairperson  
and Members  
of  
Adjudicating  
Authority.

Member to  
act as  
Chairperson  
in certain  
circumstances.



(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

16. No act or proceeding of the Adjudicating Authority shall be invalid merely by reason of—

Vacancies, etc., not to invalidate proceedings of Adjudicating Authority.

(a) any vacancy in, or any defect in the constitution of the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

17. (1) The Central Government shall provide each Adjudicating Authority with such officers and employees as that Government may think fit.

Officers and employees of Adjudicating Authority.

(2) The officers and employees of the Adjudicating Authority shall discharge their functions under the general superintendence of the Chairperson of the Adjudicating Authority.

18. (1) The following shall be the authorities for the purposes of this Act, namely:—

Authorities and jurisdiction.

(a) the Initiating Officer;

(b) the Approving Authority;

(c) the Administrator; and

(d) the Adjudicating Authority.

(2) The authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or, assigned, as the case may be, to it under this Act or in accordance with such rules as may be prescribed.

5 of 1908.

19. (1) The authorities shall, for the purposes of this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

Powers of authorities.

(a) discovery and inspection;

(b) enforcing the attendance of any person, including any official of a banking company or a public financial institution or any other intermediary or reporting entity, and examining him on oath;

(c) compelling the production of books of account and other documents;

(d) issuing commissions;

(e) receiving evidence on affidavits; and

(f) any other matter which may be prescribed.

(2) All the persons summoned under sub-section (1) shall be bound to attend in person or through authorised agents, as any authority under this Act may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.

45 of 1860.

(3) Every proceeding under sub-section (1) or sub-section (2) shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code.

(4) For the purposes of this Act, any authority under this Act may requisition the service of any police officer or of any officer of the Central Government or



State Government or of both to assist him for all or any of the purposes specified in sub-section (1), and it shall be the duty of every such officer to comply with the requisition or direction.

(5) For the purposes of this section, "reporting entity" means any intermediary or any authority or of the Central or the State Government or any other person as may be notified in this behalf.

*Explanation.*—For the purposes of sub-section (5), "intermediary" shall have the same meaning as assigned to it in clause (n) of sub-section (1) of section 2 of the Prevention of Money-Laundering Act, 2002.

20. The following officers shall assist the authorities in the enforcement of this Act, namely:—

(a) income-tax authorities appointed under sub-section (1) of section 117 of the Income-tax Act, 1961;

(b) officers of the Customs and Central Excise Departments;

(c) officers appointed under sub-section (1) of section 5 of the Narcotic Drugs and Psychotropic Substances Act, 1985;

(d) officers of the stock exchange recognised under section 4 of the Securities Contracts (Regulation) Act, 1956;

(e) officers of the Reserve Bank of India constituted under sub-section (1) of section 3 of the Reserve Bank of India Act, 1934;

(f) police;

(g) officers of enforcement appointed under sub-section (1) of section 36 of the Foreign Exchange Management Act, 1999;

(h) officers of the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992;

(i) officers of any other body corporate constituted or established under a Central or a State Act; and

(j) such other officers of the Central Government, State Government, local authorities or banking companies as the Central Government may, by notification, specify, in this behalf.

21. (1) The Initiating Officer or the Approving Authority or the Adjudicating Authority shall have power to require any officer of the Central Government or State Government or a local body or any person or officer who is responsible for registering and maintaining books of account or other documents containing a record of any transaction relating to any property or any other person to furnish any information in relation to any person, point or matter as in his opinion shall be useful for or relevant for the purposes of this Act.

(2) Without prejudice to sub-section (1), every officer or person referred to in sub-section (1) shall furnish such information to any authority under this Act in such form and manner as may be prescribed.

22. (1) Where any books of account or other documents are produced before the authority in any proceedings under this Act and the authority in this behalf has reason to believe that any of the books of account or other documents are required to be impounded and retained for any inquiry under this Act, it may impound and retain the books of account or other documents for a period not exceeding three months from the date of order of attachment made by the Adjudicating Authority under sub-section (3) of section 26:

Certain  
officers to  
assist in  
inquiry, etc.

Power to call  
for  
information.

Power of  
authority to  
impound  
documents.

15 of 2003.

43 of 1961.

61 of 1985.

42 of 1956.

2 of 1934.

40 of 1999.

15 of 1992.



Provided that the period for retention of the books of account or other documents may be extended beyond a period exceeding three months from the date of order of attachment made by the Adjudicating Authority under sub-section (3) of section 26 where the authority records in writing the reasons for extending the same.

(2) Where the authority impounding and retaining the books of account or other documents, under sub-section (1) is the Initiating Officer, he shall obtain approval of the Approving Authority within a period of fifteen days from the date of initial impounding and seek further approval of the Approving Authority for extending the period of initial retention, before the expiry of the period of initial retention, if so required.

(3) The period of retention of the books of account or other documents under sub-section (1) shall in no case exceed a period of thirty days from the date of conclusion of all the proceedings under this Act.

(4) The person, from whom the books of account or other documents were impounded under sub-section (1), shall be entitled to obtain copies thereof.

(5) On the expiry of the period specified under sub-section (1), the books of account or other documents shall be returned to the person from whom such books of account or other documents were impounded unless the Approving Authority or the Adjudicating Authority permits their release to any other person.

23. The Initiating Officer, after obtaining prior approval of the Approving Authority, shall have power to conduct or cause to be conducted any inquiry or investigation in respect of any person, place, property, assets, documents, books of account or other documents, in respect of any other relevant matters under this Act.

Power of authority to conduct inquiry, etc.

#### CHAPTER IV

##### ATTACHMENT, ADJUDICATION AND CONFISCATION

24. (1) Where the Initiating Officer, on the basis of material in his possession, has reason to believe that any person is a *benamidar* in respect of a property, he may, after recording reasons in writing, issue a notice to the person to show cause within such time as may be specified in the notice why the property should not be treated as *benami* property.

Notice and attachment of property involved in *benami* transaction.

(2) Where a notice under sub-section (1) specifies any property as being held by a *benamidar* referred to in that sub-section, a copy of the notice shall also be issued to the beneficial owner if his identity is known.

(3) Where the Initiating Officer is of the opinion that the person in possession of the property held *benami* may alienate the property during the period specified in the notice, he may, with the previous approval of the Approving Authority, by order in writing, attach provisionally the property in the manner as may be prescribed, for a period not exceeding ninety days from the date of issue of notice under sub-section (1).

(4) The Initiating Officer, after making such inquiries and calling for such reports or evidence as he deems fit and taking into account all relevant materials, shall, within a period of ninety days from the date of issue of notice under sub-section (1),—

(a) where the provisional attachment has been made under sub-section (3),—

(i) pass an order continuing the provisional attachment of the property with the prior approval of the Approving Authority, till the passing of the order by the Adjudicating Authority under sub-section (3) of section 26; or



(ii) revoke the provisional attachment of the property with the prior approval of the Approving Authority;

(b) where provisional attachment has not been made under sub-section (3),—

(i) pass an order provisionally attaching the property with the prior approval of the Approving Authority, till the passing of the order by the Adjudicating Authority under sub-section (3) of section 26; or

(ii) decide not to attach the property as specified in the notice, with the prior approval of the Approving Authority.

(5) Where the Initiating Officer passes an order continuing the provisional attachment of the property under sub-clause (i) of clause (a) of sub-section (4) or passes an order provisionally attaching the property under sub-clause (i) of clause (b) of that sub-section, he shall, within fifteen days from the date of the attachment, draw up a statement of the case and refer it to the Adjudicating Authority.

Manner of  
service of  
notice.

25. (1) A notice under sub-section (1) of section 24 may be served on the person named therein either by post or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908.

5 of 1908.

(2) Any notice referred to in sub-section (1) may be addressed—

(i) in case of an individual, to such individual;

(ii) in the case of a firm, to the managing partner or the manager of the firm;

(iii) in the case of a Hindu undivided family, to *Karta* or any member of such family;

(iv) in the case of a company, to the principal officer thereof;

(v) in the case of any other association or body of individuals, to the principal officer or any member thereof;

(vi) in the case of any other person (not being an individual), to the person who manages or controls his affairs.

Adjudication  
of *benami*  
property.

26. (1) On receipt of a reference under sub-section (5) of section 24, the Adjudicating Authority shall issue notice, to furnish such documents, particulars or evidence as is considered necessary on a date to be specified therein, on the following persons, namely:—

(a) the person specified as a *benamidar* therein;

(b) any person referred to as the beneficial owner therein or identified as such;

(c) any interested party, including a banking company;

(d) any person who has made a claim in respect of the property;

Provided that the Adjudicating Authority shall issue notice within a period of thirty days from the date on which a reference has been received:

Provided further that the notice shall provide a period of not less than thirty days to the person to whom the notice is issued to furnish the information sought.

(2) Where the property is held jointly by more than one person, the Adjudicating Authority shall make all endeavours to serve notice to all persons holding the property:



Provided that where the notice is served on anyone of the persons, the service of notice shall not be invalid on the ground that the said notice was not served to all the persons holding the property.

(3) The Adjudicating Authority shall, after—

(a) considering the reply, if any, to the notice issued under sub-section (1);

(b) making or causing to be made such inquiries and calling for such reports or evidence as it deems fit; and

(c) taking into account all relevant materials,

provide an opportunity of being heard to the person specified as a *benamidar* therein, the Initiating Officer, and any other person who claims to be the owner of the property, and, thereafter, pass an order—

(i) holding the property not to be a *benami* property and revoking the attachment order; or

(ii) holding the property to be a *benami* property and confirming the attachment order, in all other cases.

(4) Where the Adjudicating Authority is satisfied that some part of the properties in respect of which reference has been made to him is *benami* property, but is not able to specifically identify such part, he shall record a finding to the best of his judgment as to which part of the properties is held *benami*.

(5) Where in the course of proceedings before it, the Adjudicating Authority has reason to believe that a property, other than a property referred to it by the Initiating Officer is *benami* property, it shall provisionally attach the property and the property shall be deemed to be a property referred to it on the date of receipt of the reference under sub-section (5) of section 24.

(6) The Adjudicating Authority may, at any stage of the proceedings, either on the application of any party, or *suo motu*, strike out the name of any party improperly joined or add the name of any person whose presence before the Adjudicating Authority may be necessary to enable him to adjudicate upon and settle all the questions involved in the reference.

(7) No order under sub-section (3) shall be passed after the expiry of one year from the end of the month in which the reference under sub-section (5) of section 24 was received.

(8) The *benamidar* or any other person who claims to be the owner of the property may either appear in person or take the assistance of an authorised representative of his choice to present his case.

*Explanation.*—For the purposes of sub-section (8), authorised representative means a person authorised in writing, being—

(i) a person related to the *benamidar* or such other person in any manner, or a person regularly employed by the *benamidar* or such other person as the case may be; or

(ii) any officer of a scheduled bank with which the *benamidar* or such other person maintains an account or has other regular dealings; or

(iii) any legal practitioner who is entitled to practice in any civil court in India; or

(iv) any person who has passed any accountancy examination recognised in this behalf by the Board; or

(v) any person who has acquired such educational qualifications as the Board may prescribe for this purpose.

27. (1) Where an order is passed in respect of any property under sub-section (3) of section 26 holding such property to be a *benami* property, the Adjudicating Authority shall, after giving an opportunity of being heard to the person concerned, make an order confiscating the property held to be a *benami* property:

Confiscation  
and vesting of  
*benami*  
property.



Provided that where an appeal has been filed against the order of the Adjudicating Authority, the confiscation of property shall be made subject to the order passed by the Appellate Tribunal under section 46:

Provided further that the confiscation of the property shall be made in accordance with such procedure as may be prescribed.

(2) Nothing in sub-section (1) shall apply to a property held or acquired by a person from the *benamidar* for adequate consideration, prior to the issue of notice under sub-section (1) of section 24 without his having knowledge of the *benami* transaction.

(3) Where an order of confiscation has been made under sub-section (1), all the rights and title in such property shall vest absolutely in the Central Government free of all encumbrances and no compensation shall be payable in respect of such confiscation.

(4) Any right of any third person created in such property with a view to defeat the purposes of this Act shall be null and void.

(5) Where no order of confiscation is made upon the proceedings under this Act attaining finality, no claim shall lie against the Government.

28. (1) The Administrator shall have the power to receive and manage the property, in relation to which an order of confiscation under sub-section (1) of section 27 has been made, in such manner and subject to such conditions, as may be prescribed.

(2) The Central Government may, by order published in the Official Gazette, notify as many of its officers as it thinks fit, to perform the functions of Administrators.

(3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is vested in the Central Government under sub-section (3) of section 27, in such manner and subject to such conditions as may be prescribed.

29. (1) Where an order of confiscation in respect of a property under sub-section (1) of section 27, has been made, the Administrator shall proceed to take the possession of the property.

(2) The Administrator shall,—

(a) by notice in writing, order within seven days of the date of the service of notice to any person, who may be in possession of the *benami* property, to surrender or deliver possession thereof to the Administrator or any other person duly authorised in writing by him in this behalf;

(b) in the event of non-compliance of the order referred to in clause (a), or if in his opinion, taking over of immediate possession is warranted, for the purpose of forcibly taking over possession, requisition the service of any police officer to assist him and it shall be the duty of the officer to comply with the requisition.

## CHAPTER V

### APPELLATE TRIBUNAL

30. The Central Government shall, by notification, establish an Appellate Tribunal to hear appeals against the orders of the Adjudicating Authority under this Act.

31. (1) The Appellate Tribunal shall consist of a Chairperson and at least two other Members of which one shall be a Judicial Member and other shall be an Administrative Member.

(2) Subject to the provisions of this Act,—

(a) the jurisdiction of the Appellate Tribunal may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson with two Members as the Chairperson may deem fit;

Management  
of properties  
confiscated.

Possession of  
the property.

Establishment  
of Appellate  
Tribunal.

Composition,  
etc., of  
Appellate  
Tribunal.



(c) the Benches of the Appellate Tribunal shall ordinarily sit in the National Capital Territory of Delhi and at such other places as the Central Government may, in consultation with the Chairperson, by notification, specify;

(d) the Central Government shall, by notification, specify the areas in relation to which each Bench of the Appellate Tribunal may exercise its jurisdiction.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson may transfer a Member from one Bench to another Bench.

32. (1) A person shall not be qualified for appointment as Chairperson of the Appellate Tribunal unless he is a sitting or retired Judge of a High Court, who has completed not less than five years' of service.

Qualifications for appointment of Chairperson and Members of Appellate Tribunal.

(2) A person shall not be qualified for appointment as a Member unless he—

(a) in the case of a Judicial Member, has been a Member of the Indian Legal Service and has held the post of Additional Secretary or equivalent post in that Service;

(b) in the case of an Administrative Member, has been a Member of the Indian Revenue Service and has held the post of Chief Commissioner of Income-tax or equivalent post in that Service.

(3) No sitting Judge of a High Court shall be appointed under this section except after consultation with the Chief Justice of the High Court.

(4) The Chairperson or a Member holding a post as such in any other Tribunal, established under any law for the time being in force, in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as the case may be, of the Appellate Tribunal under this Act.

33. (1) The salary and allowances payable to, and the other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed and shall not be varied to their disadvantage during their tenure.

Terms and conditions of services of Chairperson and Members of Appellate Tribunal.

(2) Any vacancy caused to the office of the Chairperson or any other Member shall be filled up within a period of three months from the date on which such vacancy occurs.

34. The Chairperson and Members of the Appellate Tribunal shall hold office for a term not exceeding five years from the date on which they enter upon their office, or until they attain the age of sixty-five years, whichever is earlier and shall not be eligible for reappointment.

Term of office of Chairperson and Members.

35. (1) The Central Government may, in consultation with the Chief Justice of High Court, remove from office of the Chairperson or any Member, who—

Removal of Chairperson and Member from office in certain circumstances.

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Judicial Member shall not be removed from his office except by an order made by the Central Government after an inquiry made by Chief Justice of the High Court in which the Chairperson or Judicial Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may suspend from office the Chairperson or Judicial Member in respect of whom a reference of conducting an inquiry has been made to the



Chief Justice of the High Court under sub-section (2), until the Central Government passes an order on receipt of the report of inquiry made by Chief Justice of the High Court on the reference.

(4) The Central Government may regulate the procedure for inquiry referred to in sub-section (2) in the manner as may be prescribed.

(5) The Administrative Member may be removed from his office by an order of the Central Government on the grounds specified in sub-section (1) and in accordance with the procedure notified by the Central Government:

Provided that the Administrative Member shall not be removed unless he has been given an opportunity of being heard in the matter.

36. No act or proceeding of the Appellate Tribunal shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of the Tribunal; or

(b) any defect in the appointment of a person acting as a Member of the Tribunal; or

(c) any irregularity in the procedure of the Tribunal not affecting the merits of the case.

37. The Chairperson or any other Member may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or any other Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of the notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

38. (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the Appellate Tribunal by reason of his death, resignation or otherwise, the senior-most Member shall act as the Chairperson until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

39. (1) The Central Government shall provide the Appellate Tribunal with such officers and employees as it may think fit.

(2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Appellate Tribunal shall be such, as may be prescribed.

40. (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.

(2) The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

Vacancies,  
etc., not to  
invalidate  
proceedings  
of Appellate  
Tribunal.

Resignation  
and removal.

Member to  
act as  
Chairperson  
in certain  
circumstances.

Staff of  
Appellate  
Tribunal.

Procedure and  
powers of  
Appellate  
Tribunal.

5 of 1908.

5 of 1908.



1 of 1872.

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing a representation for default or deciding it *ex parte*;

(h) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(i) any other matter, which may be, prescribed by the Central Government.

(3) An order made by the Appellate Tribunal under this Act shall be executable by it as a decree of civil court and, for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(4) Notwithstanding anything contained in sub-section (3), the Appellate Tribunal may transmit any order made by it to a civil court having jurisdiction and the civil court shall execute the order as if it were a decree made by that court.

45 of 1860.

2 of 1974.

(5) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

41. Where any Benches are constituted, the Chairperson may, from time to time, by notification, make provision as to the distribution of the business of the Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with by each Bench.

Distribution of business amongst Benches of Appellate Tribunal.

42. On the application of any of the parties and notice to the parties, and after hearing them, or on his own motion without any notice, the Chairperson of the Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

Power of Chairperson of Appellate Tribunal to transfer cases.

43. If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Appellate Tribunal who shall either hear the point or points himself or refer the case for hearing on the point or points by one or more of the other Members and the point or points shall be decided according to the opinion of the majority of the Members of the Appellate Tribunal who have heard the case, including those who first heard it.

Decision to be by majority.

45 of 1860.

44. The Chairperson, Members and other officers and employees of the Appellate Tribunal, the Adjudicating Authority, Approving Authority, Initiating Officer, Administrator and the officers subordinate to all of them shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, etc., to be public servants.

45. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which any of the authorities, an Adjudicating Authority or the Appellate Tribunal is empowered by or under this Act to determine, and no injunction shall be granted by any court or other forum in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Bar of jurisdiction of civil courts.

46. (1) Any person, including the Initiating Officer, aggrieved by an order of the Adjudicating Authority may prefer an appeal in such form and along with such fees, as may be prescribed, to the Appellate Tribunal against the order passed by the Adjudicating Authority under sub-section (3) of section 26, within a period of forty-five days from the date of the order.

Appeals to Appellate Tribunal.



(2) The Appellate Tribunal may entertain any appeal after the said period of forty-five days, if it is satisfied that the appellant was prevented, by sufficient cause, from filing the appeal in time.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(4) An Appellate Tribunal while deciding the appeal shall have the power—

(a) to determine a case finally, where the evidence on record is sufficient;

(b) to take additional evidence or to require any evidence to be taken by the Adjudicating Authority, where the Adjudicating Authority has refused to admit evidence, which ought to have been admitted;

(c) to require any document to be produced or any witness to be examined for the purposes of proceeding before it;

(d) to frame issues which appear to the Appellate Tribunal essential for adjudication of the case and refer them to the Adjudicating Authority for determination;

(e) to pass final order and affirm, vary or reverse an order of adjudication passed by the Adjudicating Authority and pass such other order or orders as may be necessary to meet the ends of justice.

(5) The Appellate Tribunal, as far as possible, may hear and finally decide the appeal within a period of one year from the last date of the month in which the appeal is filed.

Rectification  
of mistakes.

47. (1) The Appellate Tribunal or the Adjudicating Authority may, in order to rectify any mistake apparent on the face of the record, amend any order made by it under section 26 and section 46 respectively, within a period of one year from the end of the month in which the order was passed.

(2) No amendment shall be made under sub-section (1), if the amendment is likely to affect any person prejudicially, unless he has been given notice of intention to do so and has been given an opportunity of being heard.

Right to  
representation.

48. (1) A person preferring an appeal to the Appellate Tribunal under this Act may either appear in person or take the assistance of an authorised representative of his choice to present his case before the Appellate Tribunal.

(2) The Central Government may authorise one or more of its officers to act as presenting officers on its behalf, and every person so authorised may present the case with respect to any appeal before the Appellate Tribunal.

*Explanation.*—For the purposes of this section, "authorised representative" means a person authorised by the appellant in writing to appear on his behalf, being—

(i) a person related to the appellant in any manner, or a person regularly employed by the appellant; or

(ii) any officer of a scheduled bank with which the appellant maintains an account or has other regular dealings; or

(iii) any legal practitioner who is entitled to practice in any civil court in India; or

(iv) any person who has passed any accountancy examination recognised in this behalf by the Board; or

(v) any person who has acquired such educational qualifications as the Board may prescribe for this purpose.



49. (1) Any party aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within a period of sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order.

Appeal to  
High Court.

(2) The High Court may entertain any appeal after the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the period specified in sub-section (1).

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question.

(5) Nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(6) The High Court shall decide the question of law so formulated and deliver the judgment thereon containing the grounds on which any decision is founded and may award any cost as it deems fit.

(7) The High Court may determine any issue which—

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

(8) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

5 of 1908.

## CHAPTER VI

### SPECIAL COURTS

50. (1) The Central Government, in consultation with the Chief Justice of the High Court, shall, for trial of an offence punishable under this Act, by notification, designate one or more Courts of Session as Special Court or Special Courts for such area or areas or for such case or class or group of cases as may be specified in the notification.

Special  
Courts.

(2) While trying an offence under this Act, a Special Court shall also try an offence other than an offence referred to in sub-section (1), with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

2 of 1974.

(3) The Special Court shall not take cognizance of any offence punishable under this Act except upon a complaint in writing made by—

(i) the authority; or

(ii) any officer of the Central Government or State Government authorised in writing by that Government by a general or special order made in this behalf.

(4) Every trial under this section shall be conducted as expeditiously as possible and every endeavour shall be made by the Special Court to conclude the trial within six months from the date of filing of the complaint.



Application  
of Code of  
Criminal  
Procedure,  
1973 to  
proceedings  
before Special  
Court.

51. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973, shall apply to the proceedings before a Special Court and the persons conducting the prosecution before the Special Court, shall be deemed to be Public Prosecutors:

2 of 1974.

Provided that the Central Government may also appoint for any case or class or group of cases, a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or a Special Public Prosecutor under this section unless, the Public Prosecutor has been in practice as an advocate for not less than seven years, and the Special Public Prosecutor has been in practice as an advocate for not less than ten years in any court.

(3) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and the provisions of that Code shall have effect accordingly.

2 of 1974.

Appeal and  
revision.

52. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapter XXIX or Chapter XXX of the Code of Criminal Procedure, 1973, on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

2 of 1974.

## CHAPTER VII

### OFFENCES AND PROSECUTION

Penalty for  
*Benami*  
transaction.

53. (1) Where any person enters into a *benami* transaction in order to defeat the provisions of any law or to avoid payment of statutory dues or to avoid payment to creditors, the beneficial owner, *benamidar* and any other person who abets or induces any person to enter into the *benami* transaction, shall be guilty of the offence of *benami* transaction.

(2) Whoever is found guilty of the offence of *benami* transaction referred to in sub-section (1) shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to seven years and shall also be liable to fine which may extend to twenty-five per cent. of the fair market value of the property.

Penalty for  
false  
information.

54. Any person who is required to furnish information under this Act knowingly gives false information to any authority or furnishes any false document in any proceeding under this Act, shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to five years and shall also be liable to fine which may extend to ten per cent. of the fair market value of the property.

Previous  
sanction.

55. No prosecution shall be instituted against any person in respect of any offence under sections 3, 53 or section 54 without the previous sanction of the Board.

Substitution  
of new  
Chapter VIII  
for sections 7  
and 8.

10. For sections 7 and 8 of the principal Act, the following shall be substituted, namely:—

## CHAPTER VIII

### MISCELLANEOUS

Repeal of  
provisions of  
certain Acts.

56. (1) Sections 81, 82 and 94 of the Indian Trusts Act, 1882, section 66 of the Code of Civil Procedure, 1908 and section 281A of the Income-tax Act, 1961, are hereby repealed.

2 of 1882.

5 of 1908.

43 of 1961.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall affect the continued operation of section 281A of the Income-tax Act, 1961 in the State of Jammu and Kashmir.

43 of 1961.



4 of 1882.

57. Notwithstanding anything contained in the Transfer of the Property Act, 1882 or any other law for the time being in force, where, after the issue of a notice under section 24, any property referred to in the said notice is transferred by any mode whatsoever, the transfer shall, for the purposes of the proceedings under this Act, be ignored and if the property is subsequently confiscated by the Central Government under section 27, then, the transfer of the property shall be deemed to be null and void.

Certain transfers to be null and void.

58. (1) The Central Government may, by notification, exempt any property relating to charitable or religious trusts from the operation of this Act.

Exemption.

(2) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

59. (1) The Central Government may, from time to time, issue such orders, instructions or directions to the authorities or require any person to furnish information as it may deem fit for the proper administration of this Act and such authorities and all other persons employed in execution of this Act shall observe and follow the orders, instructions and directions of the Central Government.

Power of Central Government to issue directions, etc.

(2) In issuing the directions or orders referred to in sub-section (1), the Central Government may have regard to anyone or more of the following criteria, namely:—

(a) territorial area;

(b) classes of persons;

(c) classes of cases; and

(d) any other criterion that may be specified by the Central Government in this behalf.

(3) No orders, instructions or directions under sub-section (1) shall be issued so as to—

(a) require any authority to decide a particular case in a particular manner; or

(b) interfere with the discretion of the Adjudicating Authority in the discharge of its functions.

60. The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of any other law for the time being in force.

Application of other laws not barred.

2 of 1974.

61. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under this Act shall be non-cognizable.

Offences to be non-cognizable.

62. (1) Where a person committing contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Offences by companies.

(2) Nothing contained in sub-section (1), shall render any person liable to punishment if he proves that the contravention took place without his knowledge.

(3) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, the director, manager,



secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" means a body corporate, and includes—

(i) a firm; and

(ii) an association of persons or a body of individuals whether incorporated or not; and

(b) "director", in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.

Notice, etc.,  
not to be  
invalid on  
certain  
grounds.

63. No notice, summons, order, document or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid, or shall be deemed to be invalid merely by reason of any mistake, defect or omission in the notice, summons, order, document or other proceeding if the notice, summons, order, document or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.

Protection of  
action taken in  
good faith.

64. No prosecution, suit or other proceeding shall lie against the Government or any officer of the Government or the Appellate Tribunal or the Adjudicating Authority established under this Act, for anything done or intended to be done in good faith under this Act.

Transfer of  
pending cases.

65. (1) Every suit or proceeding in respect of a *benami* transaction pending in any Court (other than a High Court) or Tribunal or before any forum on the date of the commencement of this Act shall stand transferred to the Adjudicating Authority or the Appellate Tribunal, as the case may be, having jurisdiction in the matter.

(2) Where any suit, or other proceeding stands transferred to the Adjudicating Authority or the Appellate Tribunal under sub-section (1),—

(a) the court, Tribunal or other forum shall, as soon as may be, after the transfer, forward the records of the suit, or other proceeding to the Adjudicating Authority or the Appellate Tribunal, as the case may be;

(b) the Adjudicating Authority may, on receipt of the records, proceed to deal with the suit, or other proceeding, so far as may be, in the same manner as in the case of a reference made under sub-section (5) of section 24, from the stage which was reached before the transfer or from any earlier stage or *de novo* as the Adjudicating Authority may deem fit.

Proceedings,  
etc., against  
legal  
representative.

66. (1) Where a person dies during the course of any proceeding under this Act, any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased.

(2) Any proceeding which could have been taken against the deceased if he had survived may be taken against the legal representative and all the provisions of this Act, except sub-section (2) of section 3 and the provisions of Chapter VII, shall apply accordingly.

(3) Where any property of a person has been held *benami* under sub-section (3) of section 26, then, it shall be lawful for the legal representative of the person to prefer an appeal to the Appellate Tribunal, in place of the person and the provisions of section 46 shall, so far as may be, apply, or continue to apply, to the appeal.



67. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

68. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) manner of ascertaining the fair market value under clause 16 of section 2;

(b) the manner of appointing the Chairperson and the Member of the Adjudicating Authorities under sub-section (2) of section 9;

(c) the salaries and allowances payable to the Chairperson and the Members of the Adjudicating Authority under sub-section (1) of section 13;

(d) the powers and functions of the authorities under sub-section (2) of section 18;

(e) other powers of the authorities under clause (f) of sub-section (1) of section 19;

(f) the form and manner of furnishing any information to the authority under sub-section (2) of section 21;

(g) the manner of provisional attachment of property under sub-section (3) of section 24;

(h) the procedure for confiscation of *benami* property under the second proviso to sub-section (1) of section 27;

(i) the manner and conditions to receive and manage the property under sub-section (1) of section 28;

(j) the manner and conditions of disposal of property vested in the Central Government under sub-section (3) of section 28;

(k) the salaries and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal under sub-section (1) of section 33;

(l) the manner of prescribing procedure for removal of Chairperson or Member under sub-section (4) of section 35;

(m) the salaries and allowances payable to and the other terms and conditions of service of the officers and employees of the Appellate Tribunal under sub-section (3) of section 39;

(n) any power of the Appellate Tribunal under clause (i) of sub-section (2) of section 40;

(o) the form in which appeal shall be filed and the fee for filing the appeal under sub-section (1) of section 46;

(p) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

69. Every rule made and notification issued under this Act shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rules or notifications, as the case may be, both Houses

Laying of rules and notifications before Parliament.



agree that the rules or notifications, as the case may be, should not be made or issued, the rule or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification, as the case may be.

Power to  
remove  
difficulties.

70. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty.

(2) No order shall be made under this section after the expiry of two years from the commencement of this Act.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Transitional  
provision.

71. The Central Government may, by notification, provide that until the Adjudicating Authorities are appointed and the Appellate Tribunal is established under this Act, the Adjudicating Authority appointed under sub-section (1) of section 6 of the Money-Laundering Act, 2002 and the Appellate Tribunal established under section 25 of that Act may discharge the functions of the Adjudicating Authority and Appellate Tribunal, respectively, under this Act.

15 of 2003.

Amendment  
of section 9.

11. Section 9 of the principal Act shall be renumbered as section 72 thereof.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTHI,**  
Additional Chief Secretary to Government.

Government Central Press, Gandhinagar.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 13<sup>th</sup> December, 2016.

No. RPB/273-2016/Act.-44-16-E:— The following Act of Parliament is republished for general information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 16<sup>th</sup> August, 2016, shraawan 25, 1938 (Sake)

The following Act of Parliament has received the assent of the President on the 12<sup>th</sup> August, 2016 is hereby published for general information:-

THE ENFORCEMENT OF SECURITY INTEREST AND RECOVERY  
OF DEBTS LAWS AND MISCELLANEOUS PROVISIONS  
(AMENDMENT) ACT, 2016

AN

[ ACT No. 44 of 2016 ]

ACT

[ 12<sup>th</sup> August, 2016 ]

*further to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Recovery of Debts due to Banks and Financial Institutions Act, 1993, the Indian Stamp Act, 1899, and the Depositories Act, 1996, and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Enforcement of Security Interest and Recovery of Debts Law and Miscellaneous Provisions (Amendment) Act, 2016. Short title and commencement.

(2) It Shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.



## CHAPTER II

AMENDMENTS TO THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND  
ENFORCEMENT OF SECURITY INTEREST ACT, 2002Amendment  
of long title.

2. In the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (hereinafter referred to in this Chapter as the principal Act), for the long title, the following shall be substituted, namely:— 54 of 2002.

"An Act to regulate securitisation and reconstruction of financial assets and enforcement of security interest and to provide for a Central database of security interests created on property rights, and for matters connected therewith or incidental thereto."

Substitution  
of references  
to certain  
expressions  
by other  
expressions.

3. Throughout the principal Act,—

(i) for the words "securitisation company", "reconstruction company", "securitisation or reconstruction company", "securitisation company or the reconstruction company" or "securitisation company or a reconstruction company", wherever they occur, the words "asset reconstruction company" shall be substituted;

(ii) for the words "securitisation companies or reconstruction companies", wherever they occur, the words "asset reconstruction companies" shall be substituted;

(iii) for the words "qualified institutional buyer", wherever they occur, the words "qualified buyer" shall be substituted;

(iv) for the words "qualified institutional buyers", wherever they occur, the words "qualified buyers" shall be substituted.

Amendment  
of section 2.

4. In the principal Act, in section 2, in sub-section (1),—

(i) after clause (b), the following clause shall be inserted, namely:—

'(ba) "asset reconstruction company" means a company registered with Reserve Bank under section 3 for the purposes of carrying on the business of asset reconstruction or securitisation, or both;'

(ii) in clause (f), after the words "financial institution in relation to such financial assistance", the words "or who has raised funds through issue of debt securities" shall be inserted;

(iii) after clause (g), the following clause shall be inserted namely:—

'(ga) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013;'

18 of 2013.

(iv) for clause (ha), the following clause shall be substituted, namely:—

'(ha) "debt" shall have the meaning assigned to it in clause (g) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and includes—

51 of 1993.

(i) unpaid portion of the purchase price of any tangible asset given on hire or financial lease or conditional sale or under any other contract;

(ii) any right, title or interest on any intangible asset or licence or assignment of such intangible asset, which secures the obligation to pay any unpaid portion of the purchase price of such intangible asset or an obligation incurred or credit otherwise extended to enable any borrower to acquire the intangible asset or obtain licence of such asset;'

(v) after clause (i), the following clause shall be inserted, namely:—

'(ia) "debt securities" means debt securities listed in accordance with the regulations made by the Board under the Securities and Exchange Board of India Act, 1992;'

15 of 1992.



(vi) for clause (j), the following clause shall be substituted, namely:—

'(j) "default" means—

(i) non-payment of any debt or any other amount payable by the borrower to any secured creditor consequent upon which the account of such borrower is classified as non-performing asset in the books of account of the secured creditor; or

(ii) non-payment of any debt or any other amount payable by the borrower with respect to debt securities after notice of ninety days demanding payment of dues served upon such borrower by the debenture trustee or any other authority in whose favour security interest is created for the benefit of holders of such debt securities;";

(vii) in clause (k), after the words "any bank or financial institution", the following words shall be inserted, namely:—

"including funds provided for the purpose of acquisition of any tangible asset on hire or financial lease or conditional sale or under any other contract or obtaining assignment or licence of any intangible asset or purchase of debt securities;";

(viii) in clause (l), after sub-clause (v), the following sub-clauses shall be inserted, namely:—

"(va) any beneficial right, title or interest in any tangible asset given on hire or financial lease or conditional sale or under any other contract which secures the obligation to pay any unpaid portion of the purchase price of such asset or an obligation incurred or credit otherwise provided to enable the borrower to acquire such tangible asset; or

(vb) any right, title or interest on any intangible asset or licence or assignment of such intangible asset, which secures the obligation to pay any unpaid portion of the purchase price of such intangible asset or an obligation incurred or credit otherwise extended to enable the borrower to acquire such intangible asset or obtain licence of the intangible asset; or";

(ix) in clause (m), after sub-clause (iii), the following sub-clauses shall be inserted, namely:—

"(iiia) a debenture trustee registered with the Board and appointed for secured debt securities;

(iiib) asset reconstruction company, whether acting as such or managing a trust created for the purpose of securitisation or asset reconstruction, as the case may be;";

(x) after clause (n), the following clause shall be inserted, namely:—

'(na) "financial lease" means a lease under any lease agreement of tangible asset, other than negotiable instrument or negotiable document, for transfer of lessor's right therein to the lessee for a certain time in consideration of payment of agreed amount periodically and where the lessee becomes the owner of the such assets at the expiry of the term of lease or on payment of the agreed residual amount, as the case may be;";

(xi) after clause (n), the following clause shall be inserted, namely:—

'(na) "negotiable document" means a document, which embodies a right to delivery of tangible assets and satisfies the requirements for negotiability under any law for the time being in force including warehouse receipt and bill of lading;";



(xii) in clause (i), in sub-clause (v), after the words "right of similar nature", the words "as may be prescribed by the Central Government in consultation with Reserve Bank" shall be inserted;

(xiii) in clause (u), after the words "regulations made thereunder," the words, figures and brackets " any category of non-institutional investors as may be specified by the Reserve Bank under sub-section (1) of section 7" shall be inserted;

(xiv) clause (v) shall be omitted;

(xv) clause (za) shall be omitted;

(xvi) for clause (zd), the following clause shall be substituted, namely:—

'(zd) "secured creditor" means—

(i) any bank or financial institution or any consortium or group of banks or financial institutions holding any right, title or interest upon any tangible asset or intangible asset as specified in clause (1);

(ii) debenture trustee appointed by any bank or financial institution;  
or

(iii) an asset reconstruction company whether acting as such or managing a trust set up by such asset reconstruction company for the securitisation or reconstruction, as the case may be; or

(iv) debenture trustee registered with the Board appointed by any company for secured debt securities; or

(v) any other trustee holding securities on behalf of a bank or financial institution,

in whose favour security interest is created by any borrower for due repayment of any financial assistance.;

(xvii) for clause (zf), the following clause shall be substituted, namely:—

'(zf) "security interest" means right, title or interest of any kind, other than those specified in section 31, upon property created in favour of any secured creditor and includes—

(i) any mortgage, charge, hypothecation, assignment or any right, title or interest of any kind, on tangible asset, retained by the secured creditor as an owner of the property, given on hire or financial lease or conditional sale or under any other contract which secures the obligation to pay any unpaid portion of the purchase price of the asset or an obligation incurred or credit provided to enable the borrower to acquire the tangible asset; or

(ii) such right, title or interest in any intangible asset or assignment or licence of such intangible asset which secures the obligation to pay any unpaid portion of the purchase price of the intangible asset or the obligation incurred or any credit provided to enable the borrower to acquire the intangible asset or licence of intangible asset;.

Amendment  
of section 3.

5. In the principal Act, in section 3,—

(i) in sub-section (1), for clause (b), the following clause shall be substituted, namely:—



"(b) having net owned fund of not less than two crore rupees or such other higher amount as the Reserve Bank, may, by notification, specify:";

(ii) in sub-section (3),—

(a) for clause (f), the following clause shall be substituted, namely:—

"(f) that a sponsor of an asset reconstruction company is a fit and proper person in accordance with the criteria as may be specified in the guidelines issued by the Reserve Bank for such persons;"

(b) clause (d) shall be omitted.

(iii) in sub-section (6),—

(a) after the words "any substantial change in its management", the words "including appointment of any director on the board of directors of the asset reconstruction company or managing director or chief executive officer thereof" shall be inserted;

(b) in the *Explanation*, after the words "by way of transfer of shares or", the words "change affecting the sponsorship in the company by way of transfer of shares or" shall be inserted.

6. In the principal Act, in section 5,—

Amendment  
of section 5.

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Any document executed by any bank or financial institution under sub-section (1) in favour of the asset reconstruction company acquiring financial assets for the purposes of asset reconstruction or securitisation shall be exempted from stamp duty in accordance with the provisions of section 8F of the Indian Stamp Act, 1899:

2 of 1899.

Provided that the provisions of this sub-section shall not apply where the acquisition of the financial assets by the asset reconstruction company is for the purposes other than asset reconstruction or securitisation.";

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) If the bank or financial institution is holding any right, title or interest upon any tangible asset or intangible asset to secure payment of any unpaid portion of the purchase price of such asset or an obligation incurred or credit otherwise provided to enable the borrower to acquire the tangible asset or assignment or licence of intangible asset, such right, title or interest shall vest in the asset reconstruction company on acquisition of such assets under sub-section (1).";

7. In the principal Act, in section 7, in sub-section (1), for the brackets and words "(other than by offer to public)", the words "or such other category of investors including non-institutional investors as may be specified by the Reserve Bank in consultation with the Board, from time to time," shall be substituted.

Amendment  
of section 7.

8. In the principal Act, for section 9, the following section shall be substituted, namely:—

Substitution  
of new  
section for  
section 9.

"9.(1) Without prejudice to the provisions contained in any other law for the time being in force, an asset reconstruction company may, for the purposes of

Measures for  
assets  
reconstruction.



asset reconstruction, provide for any one or more of the following measures, namely:—

- (a) the proper management of the business of the borrower, by change in, or take over of, the management of the business of the borrower;
- (b) the sale or lease of a part or whole of the business of the borrower;
- (c) rescheduling of payment of debts payable by the borrower;
- (d) enforcement of security interest in accordance with the provisions of this Act;
- (e) settlement of dues payable by the borrower;
- (f) taking possession of secured assets in accordance with the provisions of this Act;
- (g) conversion of any portion of debt into shares of a borrower company:

Provided that conversion of any part of debt into shares of a borrower company shall be deemed always to have been valid, as if the provisions of this clause were in force at all material times.

(2) The Reserve Bank shall, for the purposes of sub-section (1), determine the policy and issue necessary directions including the direction for regulation of management of the business of the borrower and fees to be charged.

(3) The asset reconstruction company shall take measures under sub-section (1) in accordance with policies and directions of the Reserve Bank determined under sub-section (2)."

Amendment  
of section 12.

9. In the principal Act, in section 12, in sub-section (2), after clause (b), the following clauses shall be inserted, namely:—

- "(c) the fee and other charges which may be charged or incurred for management of financial assets acquired by any asset reconstruction company;
- (d) transfer of security receipts issued to qualified buyers."

Insertion of  
new section  
12B.

10. In the principal Act, after section 12A, the following section shall be inserted, namely:—

Power of  
Reserve Bank  
to carry out  
audit and  
inspection.

"12B. (1) The Reserve Bank may, for the purposes of this Act, carry out or caused to be carried out audit and inspection of an asset reconstruction company from time to time.

(2) It shall be the duty of an asset reconstruction company and its officers to provide assistance and cooperation to the Reserve Bank to carry out audit or inspection under sub-section (1).

(3) Where on audit or inspection or otherwise, the Reserve Bank is satisfied that business of an asset reconstruction company is being conducted in a manner detrimental to public interest or to the interests of investors in security receipts issued by such asset reconstruction company, the Reserve Bank may, for securing proper management of an asset reconstruction company, by an order—

(a) remove the Chairman or any director or appoint additional directors on the board of directors of the asset reconstruction company; or

(b) appoint any of its officers as an observer to observe the working of the board of directors of such asset reconstruction company;

Provided that no order for removal of Chairman or director under clause (a) shall be made except after giving him an opportunity of being heard.



(4) It shall be the duty of every director or other officer or employee of the asset reconstruction company to produce before the person, conducting an audit or inspection under sub-section (1), all such books, accounts and other documents in his custody or control and to provide him such statements and information relating to the affairs of the asset reconstruction company as may be required by such person within the stipulated time specified by him."

11. In the principal Act, in section 13,—

(i) in sub-section (2), the following proviso shall be inserted, namely:—

Amendment  
of section 13.

"Provided that—

(i) the requirement of classification of secured debt as non-performing asset under this sub-section shall not apply to a borrower who has raised funds through issue of debt securities; and

(ii) in the event of default, the debenture trustee shall be entitled to enforce security interest in the same manner as provided under this section with such modifications as may be necessary and in accordance with the terms and conditions of security documents executed in favour of the debenture trustee;";

(iii) for sub-section (8), the following sub-section shall be substituted, namely:—

"(8) Where the amount of dues of the secured creditor together with all costs, charges and expenses incurred by him is tendered to the secured creditor at any time before the date of publication of notice for public auction or inviting quotations or tender from public or private treaty for transfer by way of lease, assignment or sale of the secured assets,—

(i) the secured assets shall not be transferred by way of lease assignment or sale by the secured creditor; and

(ii) in case, any step has been taken by the secured creditor for transfer by way of lease or assignment or sale of the assets before tendering of such amount under this sub-section, no further step shall be taken by such secured creditor for transfer by way of lease or assignment or sale of such secured assets."

12. In the principal Act, in section 14, in sub-section (1),—

(i) in the second proviso, after the words "secured assets", the words "within a period of thirty days from the date of application" shall be inserted;

Amendment  
of section 14.

(ii) after the second proviso, the following proviso shall be inserted, namely:—

"Provided further that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period but not exceeding in aggregate sixty days."

13. In the principal Act, in section 15, in sub-section (4), the following proviso shall be inserted, namely:—

Amendment  
of section 15.

"Provided that if any secured creditor jointly with other secured creditors or any asset reconstruction company or financial institution or any other assignee has



converted part of its debt into shares of a borrower company and thereby acquired controlling interest in the borrower company, such secured creditors shall not be liable to restore the management of the business to such borrower."

Amendment  
of section 17.

14. In the principal Act, in section 17,—

(i) for the marginal heading "Right to appeal", the words "Application against measures to recover secured debts" shall be substituted;

(ii) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) An application under sub-section (1) shall be filed before the Debts Recovery Tribunal within the local limits of whose jurisdiction—

(a) the cause of action, wholly or in part, arises;

(b) where the secured asset is located; or

(c) the branch or any other office of a bank or financial institution is maintaining an account in which debt claimed is outstanding for the time being;"

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) If, the Debts Recovery Tribunal, after examining the facts and circumstances of the case and evidence produced by the parties, comes to the conclusion that any of the measures referred to in sub-section (4) of section 13, taken by the secured creditor are not in accordance with the provisions of this Act and the rules made thereunder, and require restoration of the management or restoration of possession, of the secured assets to the borrower or other aggrieved person, it may, by order,—

(a) declare the recourse to any one or more measures referred to in sub-section (4) of section 13 taken by the secured creditor as invalid; and

(b) restore the possession of secured assets or management of secured assets to the borrower or such other aggrieved person, who has made an application under sub-section (1), as the case may be; and

(c) pass such other direction as it may consider appropriate and necessary in relation to any of the recourse taken by the secured creditor under sub-section (4) of section 13.";

(iv) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) Where—

(i) any person, in an application under sub-section (1), claims any tenancy or leasehold rights upon the secured asset, the Debt Recovery Tribunal, after examining the facts of the case and evidence produced by the parties in relation to such claims shall, for the purposes of enforcement of security interest, have the jurisdiction to examine whether lease or tenancy,—

(a) has expired or stood determined; or

(b) is contrary to section 65A of the Transfer of Property Act, 1882; or 4 of 1882.

or

(c) is contrary to terms of mortgage; or

(d) is created after the issuance of notice of default and demand by the Bank under sub-section (2) of section 13 of the Act; and



(ii) the Debt Recovery Tribunal is satisfied that tenancy right or leasehold rights claimed in secured asset falls under the sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) of clause (i), then notwithstanding anything to the contrary contained in any other law for the time being in force, the Debt Recovery Tribunal may pass such order as it deems fit in accordance with the provisions of this Act."

15. In the principal Act, in section 19, for the words "concerned borrowers, such borrowers", the words "concerned borrowers or any other aggrieved person, who has filed the application under section 17 or section 17A or appeal under section 18 or section 18A, as the case may be, the borrower or such other person" shall be substituted.

Amendment  
of section 19.

16. In the principal Act, after section 20, the following sections shall be inserted, namely:—

Insertion of  
new sections  
20A and 20B.

"20A. (1) The Central Government may, for the purpose of providing a Central database, in consultation with State Governments or other authorities operating registration system for recording rights over any property or creation, modification or satisfaction of any security interest on such property, integrate the registration records of such registration systems with the records of Central Registry established under section 20, in such manner as may be prescribed.

Integration of  
registration  
systems with  
Central  
Registry.

*Explanation.*—For the purpose of this sub-section, the registration records includes records of registration under the Companies Act, 2013, the Registration Act, 1908, the Merchant Shipping Act, 1958, the Motor Vehicles Act, 1988, the Patents Act, 1970, the Designs Act, 2000 or other such records under any other law for the time being in force.

(2) The Central Government shall after integration of records of various registration systems referred to in sub-section (1) with the Central Registry, by notification, declare the date of integration of registration systems and the date from which such integrated records shall be available; and with effect from such date, security interests over properties which are registered under any registration system referred to in sub-section (1) shall be deemed to be registered with the Central Registry for the purposes of this Act."

"20B. The Central Government may, by notification, delegate its powers and functions under this Chapter, in relation to establishment, operations and regulation of the Central Registry to the Reserve Bank, subject to such terms and conditions as may be prescribed."

Delegation of  
powers.

17. In the principal Act,—

(i) section 23 shall be numbered as sub-section (1), and in sub-section (1) as so re-numbered,—

Amendment  
of section 23.

(a) the words "within thirty days after the date of such transaction or creation of security, by the securitisation company or reconstruction company or the secured creditor, as the case may be" shall be omitted;

(b) the first proviso shall be omitted;

(c) in the second proviso, the word "further" shall be omitted;

(ii) in section 23, after sub-section (1) so renumbered, the following sub-sections shall be inserted, namely:—

"(2) The Central Government may, by notification, require the registration of transaction relating to different types of security interest created on different kinds of property with the Central Registry.

18 of 2013.  
16 of 1908.  
44 of 1958.  
59 of 1988.  
39 of 1970.  
16 of 2000.



(3) The Central Government may, by rules, prescribe forms for registration for different types of security interest under this section and fee to be charged for such registration."

Insertion of  
new Chapter  
IVA.

18. In the principal Act, after section 26A, the following chapter shall be inserted, namely:—

#### "CHAPTER IVA

##### REGISTRATION BY SECURED CREDITORS AND OTHER CREDITORS

Registration  
by secured  
creditors and  
other  
creditors.

26B. (1) The Central Government may by notification, extend the provisions of Chapter IV relating to Central Registry to all creditors other than secured creditors as defined in clause (zd) of sub-section (1) of section 2, for creation, modification or satisfaction of any security interest over any property of the borrower for the purpose of securing due repayment of any financial assistance granted by such creditor to the borrower.

(2) From the date of notification under sub-section (1), any creditor including the secured creditor may file particulars of transactions of creation, modification or satisfaction of any security interest with the Central Registry in such form and manner as may be prescribed.

(3) A creditor other than the secured creditor filing particulars of transactions of creation, modification and satisfaction of security interest over properties created in its favour shall not be entitled to exercise any right of enforcement of securities under this Act.

(4) Every authority or officer of the Central Government or any State Government or local authority, entrusted with the function of recovery of tax or other Government dues and for issuing any order for attachment of any property of any person liable to pay the tax or Government dues, shall file with the Central Registry such attachment order with particulars of the assessee and details of tax or other Government dues from such date as may be notified by the Central Government, in such form and manner as may be prescribed.

(5) If any person, having any claim against any borrower, obtains orders for attachment of property from any court or other authority empowered to issue attachment order, such person may file particulars of such attachment orders with Central Registry in such form and manner on payment of such fee as may be prescribed.

Effect of the  
registration  
of  
transactions,  
etc.

26C. (1) Without prejudice to the provisions contained in any other law, for the time being in force, any registration of transactions of creation, modification or satisfaction of security interest by a secured creditor or other creditor or filing of attachment orders under this Chapter shall be deemed to constitute a public notice from the date and time of filing of particulars of such transaction with the Central Registry for creation, modification or satisfaction of such security interest or attachment order, as the case may be.

(2) Where security interest or attachment order upon any property in favour of the secured creditor or any other creditor are filed for the purpose of registration under the provisions of Chapter IV and this Chapter, the claim of such secured creditor or other creditor holding attachment order shall have priority over any subsequent security interest created upon such property and any transfer by way of sale, lease or assignment or licence of such property or attachment order subsequent to such registration, shall be subject to such claim:

Provided that nothing contained in this sub-section shall apply to transactions carried on by the borrower in the ordinary course of business.



26D. Notwithstanding anything contained in any other law for the time being in force, from the date of commencement of the provisions of this Chapter, no secured creditor shall be entitled to exercise the rights of enforcement of securities under Chapter III unless the security interest created in its favour by the borrower has been registered with the Central Registry.

Right of enforcement of securities.

26E. Notwithstanding anything contained in any other law for the time being in force, after the registration of security interest, the debts due to any secured creditor shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority.

Priority to secured creditors.

31 of 2016.

*Explanation.*—For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016, in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."

19. In section 27, the following proviso shall be inserted, namely:—

Amendment of section 27.

"Provided that provisions of this section shall be deemed to have been omitted from the date of coming into force of the provisions of this Chapter and section 23 as amended by the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016."

20. In the principal Act, section 28, shall be omitted.

Omission of section 28.

21. In the principal Act, after section 30, the following sections shall be inserted, namely:—

Insertion of new sections 30A, 30B, 30C and 30D.

"30A. (1) Where any asset reconstruction company or any person fails to comply with any direction issued by the Reserve Bank under this Act the adjudicating authority may, by an order, impose on such company or person in default, a penalty not exceeding one crore rupees or twice the amount involved in such failure where such amount is quantifiable, whichever is more, and where such failure is a continuing one, a further penalty which may extend to one lakh rupees for every day, after the first, during which such failure continues.

Power of adjudicating authority to impose penalty.

(2) For the purpose of imposing penalty under sub-section (1), the adjudicating authority shall serve a notice on the asset reconstruction company or the person in default requiring such company or person to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall be given to such person.

(3) Any penalty imposed under this section shall be payable within a period of thirty days from the date of issue of notice under sub-section (2).

(4) Where the asset reconstruction company fails to pay the penalty within the specified period under sub-section (3), the adjudicating authority shall, by an order, cancel its registration:

Provided that an opportunity of being heard shall be given to such asset reconstruction company before cancellation of registration.

(5) No complaint shall be filed against any person in default in any court pertaining to any failure under sub-section (1) in respect of which any penalty has been imposed and recovered by the Reserve Bank under this section.

(6) Where any complaint has been filed against a person in default in the court having jurisdiction no proceeding for imposition of penalty against that person shall be taken under this section.



*Explanation.*—For the purposes of this section and sections 30B, 30C and 30D,—

(i) "adjudicating authority" means such officer or a committee of officers of the Reserve Bank, designated as such from time to time, by notification, by the Central Board of Reserve Bank;

(ii) "person in default" means the asset reconstruction company or any person which has committed any failure, contravention or default under this Act and any person incharge of such company or such other person, as the case may be, shall be liable to be proceeded against and punished under section 33 for such failure or contravention or default committed by such company or person.

Appeal  
against  
penalties.

30B. A person in default, aggrieved by an order passed under sub-section (4) of section 30A, may, within a period of thirty days from the date on which such order is passed, prefer an appeal to the Appellate Authority:

Provided that the Appellate Authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within such period.

Appellate  
Authority.

30C. (1) The Central Board of Reserve Bank may designate such officer or committee of officers as it deems fit to exercise the power of Appellate Authority.

(2) The Appellate Authority shall have power to pass such order as it deems fit after providing a reasonable opportunity of being heard to the person in default.

(3) The Appellate Authority may, by an order stay the enforcement of the order passed by the adjudicating authority under section 30A, subject to such terms and conditions, as it deems fit.

(4) Where the person in default fails to comply with the terms and conditions imposed by order under sub-section (3) without reasonable cause, the Appellate Authority may dismiss the appeal.

Recovery of  
penalties.

30D. (1) Any penalty imposed under section 30A shall be recovered as a "recoverable sum" and shall be payable within a period of thirty days from the date on which notice demanding payment of the recoverable sum is served upon the person in default and, in the case of failure of payment by such person within such period, the Reserve Bank may, for the purpose of recovery,—

(a) debit the current account, if any, of the person in default maintained with the Reserve Bank or by liquidating the securities, if any, held to the credit of such person in the books of the Reserve Bank;

(b) issue a notice to the person from whom any amount is due to the person in default, requiring such person to deduct from the amount payable by him to the person in default, such amount equivalent to the amount of the recoverable sum, and to make payment of such amount to the Reserve Bank.

(2) Save as otherwise provided in sub-section (4), a notice issued under clause (b) of sub-section (1) shall be binding on every person to whom it is issued, and, where such notice is issued to a post office, bank or an insurance company, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry or endorsement thereof before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(3) Any claim in respect of any amount, arising after the date of issue of notice under sub-section (1) shall be void as against the demand contained in such notice.

(4) Any person, to whom the notice is sent under sub-section (1), objects to such notice by a statement on oath that the sum demanded or any part thereof is not



due to the person in default or that he does not hold any money for or on account of the person in default, then nothing contained in this section shall be deemed to require, such person to pay such sum or part thereof, as the case may be.

(5) Where it is found that statement made by the person under sub-section (4) is false in material particulars, such person shall be personally liable to the Reserve Bank to the extent of his own liability to the person in default on the date of the notice, or to the extent of the recoverable sum payable by the person in default to the Reserve Bank, whichever is less.

(6) The Reserve Bank may, at any time, amend or revoke any notice issued under sub-section (1) or extend the time for making the payment in pursuance of such notice.

(7) The Reserve Bank shall grant a receipt for any amount paid to it in compliance with a notice issued under this section and the person so paying shall be fully discharged from his liability to the person in default to the extent of the amount so paid.

(8) Any person discharging any liability to the person in default after the receipt of a notice under this section shall be personally liable to the Reserve Bank—

(a) to the extent of his own liability to the person in default so discharged; or

(b) to the extent of the recoverable sum payable by the person in default to the Reserve Bank,

whichever is less.

(9) Where the person to whom the notice is sent under this section, fails to make payment in pursuance thereof to the Reserve Bank, he shall be deemed to be the person in default in respect of the amount specified in the notice and action or proceedings may be taken or instituted against him for the realisation of the amount in the manner provided in this section.

(10) The Reserve Bank may enforce recovery of recoverable sum through the principal civil court having jurisdiction in the area where the registered office or the head office or the principal place of business of the person in default or the usual place of residence of such person is situated as if the notice issued by the Reserve Bank were a decree of the Court.

(11) No recovery under sub-section (10) shall be enforced, except on an application made to the principal civil court by an officer of the Reserve Bank authorised in this behalf certifying that the person in default has failed to pay the recoverable sum."

22. In the principal Act, in section 31, clause (e) shall be omitted.

Amendment  
of section 31.

23. In the principal Act, in section 31A, for sub-section (2), the following sub-sections shall be substituted, namely:—

Amendment  
of section  
31A.

"(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

(3) In reckoning any such period of thirty days as is referred to in sub-section (2), no account shall be taken of any period during which the House referred to in sub-section (2) is prorogued or adjourned for more than four consecutive days.

(4) The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament."



Amendment  
of section 32.

24. In the principal Act, in section 32, for the words "any secured creditor or any of his officers or manager exercising any of the rights of the secured creditor or borrower", the words "the Reserve Bank or the Central Registry or any secured creditor or any of its officers" shall be substituted.

Amendment  
of section 38.

25. In the principal Act, in section 38, in sub-section (2),—

(i) clause (a) shall be numbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

"(a) other business or commercial rights of similar nature under clause (t) of section 2;"

(ii) after clause (bc), the following clauses shall be inserted, namely:—

"(bca) the manner of integration of records of various registration systems with the records of Central Registry under sub-section (1) of section 20A;

(bcb) the terms and conditions of delegation of powers by the Central Government to the Reserve Bank under section 20B.";

(iii) after clause (d), the following clauses shall be inserted, namely:—

"(da) the form for registration of different types of security interests and fee thereof under sub-section (3) of section 23;"

(iv) after clause (f), the following clauses shall be inserted, namely:—

"(fa) the form and the manner for filing particulars of transactions under sub-section (2) of section 26B;

(fb) the form and manner of filing attachment orders with the Central Registry and the date under sub-section (4) of section 26B;

(fc) the form and manner of filing particulars of attachment order with the Central Registry and the fee under sub-section (5) of section 26B."

### CHAPTER III

#### AMENDMENTS TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

Amendment  
of section 2.

26. In the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 51 of 1993.  
(hereinafter in this Chapter referred to as the principal Act), in section 2,—

(i) in clause (g), after the words "the date of the application", the following words shall be inserted, namely:—

"and includes any liability towards debt securities which remains unpaid in full or part after notice of ninety days served upon the borrower by the debenture trustee or any other authority in whose favour security interest is created for the benefit of holders of debt securities or;"

(ii) after clause (g), the following clause shall be inserted, namely:—

"(ga) "debt securities" means debt securities listed in accordance with regulations made by the Securities Exchange Board of India under the Securities and Exchange Board of India Act, 1992;"

15 of 1992.

(iii) in clause (h), after sub-clause (ia), the following sub-clause shall be inserted, namely:—

"(ib) a debenture trustee registered with the Board and appointed for secured debt securities;"



(iv) after clause (h), the following clause shall be inserted, namely:—

'(ha) "financial lease" means a lease under a lease agreement of tangible asset, other than negotiable instrument or negotiable document, for transfer of lessor's right therein to the lessee for a certain time in consideration of payment of agreed amount periodically and where lessee becomes the owner of the such assets at the expiry of the term of lease or on payment of the agreed residual amount, as the case may be;'

(v) after clause (ja), the following clause shall be inserted, namely:—

'(jb) "property" means—

(a) immovable property;

(b) movable property;

(c) any debt or any right to receive payment of money, whether secured or unsecured;

(d) receivables, whether existing or future;

(e) intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature, as may be prescribed by the Central Government in consultation with Reserve Bank;'

(vi) after clause (l), the following clauses shall be inserted, namely:—

'(la) "secured creditor" shall have the meaning as assigned to it in clause (zd) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

'(lb) "security interest" means mortgage, charge, hypothecation, assignment or any other right, title or interest of any kind whatsoever upon property, created in favour of any bank or financial institution and includes—

(a) such right, title or interest upon tangible asset, retained by the bank or financial institution as owner of the property, given on hire or financial lease or conditional sale which secures the obligation to pay any unpaid portion of the purchase price of the asset or an obligation incurred or any credit provided to enable the borrower to acquire the tangible asset; or

(b) such right, title or interest in any intangible asset or licence of any intangible asset, which secures the obligation to pay any unpaid portion of the purchase price of the intangible asset or the obligation incurred or any credit extended to enable the borrower to acquire the intangible asset or licence of intangible asset;'

27. In the principal Act, in section 4, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment  
of section 4.

"(2) Notwithstanding anything contained in sub-section (1), the Central Government may—

(a) authorise the Presiding Officer of any other Tribunal established under any other law for the time being in force to discharge the function of the Presiding Officer of a Debt Recovery Tribunal under this Act in addition to his being the Presiding Officer of that Tribunal; or

(b) authorise the judicial Member holding post as such in any other Tribunal, established under any other law for the time being in force, to discharge the functions of the Presiding Officer of Debts Recovery Tribunal



under this Act, in addition to his being the judicial Member of that Tribunal."

Amendment  
of section 6.

28. In the principal Act, for section 6, the following section shall be substituted, namely:—

Term of  
office of  
Presiding  
Officer.

"6. The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided that no person shall hold office as the Presiding Officer of a Tribunal after he has attained the age of sixty-five years."

Amendment  
of section 8.

29. In the principal Act, in section 8, in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that the Central Government may authorise the Chairperson of any other Appellate Tribunal, established under any other law for the time being in force, to discharge the functions of the Chairperson of the Debts Recovery Appellate Tribunal under this Act in addition to his being the Chairperson of that Appellate Tribunal."

Amendment  
of section 11.

30. In the Principal Act, for section 11, the following section shall be substituted, namely:—

Term of  
office of  
Chairperson  
of Appellate  
Tribunal.

"11. The Chairperson of an Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided that no person shall hold office as the Chairperson of a Appellate Tribunal after he has attained the age of seventy years."

Amendment  
of section  
17A.

31. In the principal Act, in section 17A, after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) For the purpose of exercise of general powers of superintendence and control over Tribunals under sub-section (1), the Chairperson may—

(i) direct the Tribunals to furnish, in such form, at such intervals and within such time, information relating to pending cases both under this Act and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, or under any other law for the time being in force, number of cases disposed of, number of new cases filed and such other information as may be considered necessary by the Chairperson;

54 of 2002.

(ii) convene meetings of the Presiding Officers of Tribunals periodically to review their performance.

(1B) Where on assessment of the performance of any Presiding Officer of the Tribunal or otherwise, the Chairperson is of the opinion that an inquiry is required to be initiated against such Presiding Officer for misbehaviour or incapacity, he shall submit a report to the Central Government recommending action against such Presiding Officer, if any, under section 15, and for reasons to be recorded in writing for the same."

Amendment  
of section 19.

32. In the principal Act, in section 19,—

(i) in sub-section (1), clause (a) shall be renumbered as clause (aa) and before clause (aa) so renumbered, the following clause shall be inserted, namely:—

"(a) the branch or any other office of the bank or financial institution is maintaining an account in which debt claimed is outstanding, for the time being; or";



(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Every application under sub-section (1) or sub-section (2) shall be in such form, and shall be accompanied with true copies of all documents relied on in support of the claim along with such fee, as may be prescribed."

(iii) in sub-section (3), after the second proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation*.—For the purposes of this section, documents includes statement of account or any entry in banker's book duly certified under the Bankers' Books Evidence Act, 1891.";

18 of 1891.

(iv) after sub-section (3), sub-section (3A) shall be renumbered as sub-section (3B) and before sub-section (3B) so renumbered, the following sub-section shall be inserted, namely:—

"(3A) Every applicant in the application filed under sub-section (1) or sub-section (2) for recovery of debt, shall—

(a) state particulars of the debt secured by security interest over properties or assets belonging to any of the defendants and the estimated value of such securities;

(b) if the estimated value of securities is not sufficient to satisfy the debt claimed, state particulars of any other properties or assets owned by any of the defendants, if any; and

(c) if the estimated value of such other assets is not sufficient to recover the debt, seek an order directing the defendant to disclose to the Tribunal particulars of other properties or assets owned by the defendants.";

(v) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) On receipt of application under sub-section (1) or sub-section (2), the Tribunal shall issue summons with following directions to the defendant—

(i) to show cause within thirty days of the service of summons as to why relief prayed for should not be granted;

(ii) direct the defendant to disclose particulars of properties or assets other than properties and assets specified by the applicant under clauses (a) and (b) of sub-section (3A); and

(iii) to restrain the defendant from dealing with or disposing of such assets and properties disclosed under clause (c) of sub-section (3A) pending the hearing and disposal of the application for attachment of properties.";

(vi) after sub-section (4), the following sub-section shall be inserted namely:—

"(4A) Notwithstanding anything contained in section 65A of the Transfer of Property Act, 1882, the defendant, on service of summons, shall not transfer by way of sale, lease or otherwise except in the ordinary course of his business any of the assets over which security interest is created and other properties and assets specified or disclosed under sub-section (3A), without the prior approval of the Tribunal:

4 of 1882.

Provided that the Tribunal shall not grant such approval without giving notice to the applicant bank or financial institution to show cause as to why approval prayed for should not be granted:



Provided further that defendant shall be liable to account for the sale proceeds realised by sale of secured assets in the ordinary course of business and deposit such sale proceeds in the account maintained with the bank or financial institution holding security interest over such assets.";

(vii) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) (i) the defendant shall within a period of thirty days from the date of service of summons, present a written statement of his defence including claim for set-off under sub-section (6) or a counter-claim under sub-section (8), if any, and such written statement shall be accompanied with original documents or true copies thereof with the leave of the Tribunal, relied on by the defendant in his defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, the Presiding Officer may, in exceptional cases and in special circumstances to be recorded in writing, extend the said period by such further period not exceeding fifteen days to file the written statement of his defence;

(ii) where the defendant makes a disclosure of any property or asset pursuant to orders passed by the Tribunal, the provisions of sub-section (4A) of this section shall apply to such property or asset;

(iii) in case of non-compliance of any order made under clause (ii) of sub-section (4), the Presiding Officer may, by an order, direct that the person or officer who is in default, be detained in civil prison for a term not exceeding three months unless in the meantime the Presiding Officer directs his release:

Provided that the Presiding Officer shall not pass an order under this clause without giving an opportunity of being heard to such person or officer.

*Explanation.*—For the purpose of this section, the expression 'officer who is in default' shall mean such officer as defined in clause (60) of section 2 of the Companies Act, 2013.";

18 of 2013.

(viii) for sub-section (5A), the following sub-section shall be substituted namely:—

"(5A) On receipt of the written statement of defendant or on expiry of time granted by the Tribunal to file the written statement, the Tribunal shall fix a date of hearing for admission or denial of documents produced by the parties to the proceedings and also for continuation or vacation of the interim order passed under sub-section (4).

(5B) Where a defendant makes an admission of the full or part of the amount of debt due to a bank or financial institution, the Tribunal shall order such defendant to pay the amount, to the extent of the admission within a period of thirty days from the date of such order failing which the Tribunal may issue a certificate in accordance with the provisions of sub-section (22) to the extent of the amount of debt due admitted by the defendant.";

(ix) in sub-section (6), after the words "the debt sought to be set-off", the words "the debt sought to be set-off along with original documents and other evidence relied on in support of claim of set-off in relation to any ascertained sum of money, against the applicant" shall be substituted;

(x) in sub-section (10), for the words "as may be fixed by the Tribunal", the words "as may be prescribed" shall be substituted;



(xi) after sub-section (10), the following sub-sections shall be inserted, namely:—

"(10A) Every application under sub-section (3) or written statement of defendant under sub-section (5) or claim of set-off under sub-section (6) or a counter-claim under sub-section (8) by the defendant, or written statement by the applicant in reply to the counter-claim, under sub-section (10) or any other pleading whatsoever, shall be supported by an affidavit sworn in by the applicant or defendant verifying all the facts and pleadings, the statements pleading documents and other documentary evidence annexed to the application or written statement or reply to set-off or counter-claim, as the case may be:

Provided that if there is any evidence of witnesses to be led by any party, the affidavits of such witnesses shall be filed simultaneously by the party with the application or written statement or replies filed under sub-section (10A).

(10B) If any of the facts or pleadings in the application or written statement are not verified in the manner provided under sub-section (10A), a party to the proceedings shall not be allowed to rely on such facts or pleadings as evidence or any of the matters set out therein.";

(xii) for sub-section (11), the following sub-section shall be substituted, namely:—

"(11) Where a defendant sets up a counter-claim in the written statement and in reply to such claim the applicant contends that the claim thereby raised ought not to be disposed of by way of counter-claim but in an independent action, the Tribunal shall decide such issue along with the claim of the applicant for recovery of the debt.";

(xiii) sub-section (12) shall be omitted.

(xiv) in sub-section (13) (4), for the words "the Tribunal is satisfied by affidavit or otherwise", the words "the Tribunal on an application made by the applicant along with particulars of property to be attached and estimated value thereof, or otherwise is satisfied" shall be substituted.";

(xv) sub-section (14) shall be omitted.

(xvi) in sub-section (15), for the word bracket and figure "sub-section (14)", the word bracket and figure "sub-section (13)" shall be substituted.

(xvii) for sub-section (19), the following sub-section shall be substituted namely:—

18 of 2013.

"(19) Where a certificate of recovery is issued against a company as defined under the Companies Act, 2013 and such company is under liquidation, the Tribunal may by an order direct that the sale proceeds of secured assets of such company be distributed in the same manner as provided in section 326 of the Companies Act, 2013 or under any other law for the time being in force.";

(xviii) for sub-section (20), the following sub-section shall be substituted, namely:—

"(20) The Tribunal may, after giving the applicant and the defendant, an opportunity of being heard, in respect of all claims, set-off or counter-claim, if any, and interest on such claims, within thirty days from the date of conclusion of the hearings, pass interim or final order as it deems fit which may include order for payment of interest from the date on which payment of the amount is found due up to the date of realisation or actual payment.";

(xix) after sub-section (20A), the following sub-sections shall be inserted, namely:—



"(20AA) While passing the final order under sub-section (20), the Tribunal shall clearly specify the assets of the borrower over which security interest is created in favour of any bank or financial institution and direct the Recovery Officers to distribute the sale proceeds of such assets as provided in sub-section (20AB).

(20AB) Notwithstanding anything to the contrary contained in any law for the time being in force, the proceeds from sale of secured assets shall be distributed in the following orders of priority, namely:—

(i) the costs incurred for preservation and protection of secured assets, the costs of valuation, public notice for possession and auction and other expenses for sale of assets shall be paid in full;

(ii) debts owed to the bank or financial institution.

*Explanation.*—For the purposes of this sub section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016, in cases where insolvency and bankruptcy proceedings are pending in respect of secured assets of the borrower, the distribution of proceeds from sale of secured assets shall be subject to the order of priority as provided in that Code." 31 of 2016.

(xx) for sub-section (21), the following sub-section shall be substituted, namely:—

"(21) (i) The Tribunal shall send a copy of its final order and the recovery certificate, to the applicant and defendant.

(ii) The applicant and the defendant may obtain copy of any order passed by the Tribunal on payment on such fee as may be prescribed.";

(xxi) for sub-section (22), the following sub-section shall be substituted, namely:—

"(22) The Presiding Officer shall issue a certificate of recovery along with the final order, under sub-section (20), for payment of debt with interest under his signature to the Recovery Officer for recovery of the amount of debt specified in the certificate.";

(xxii) after sub-section (22), the following sub-section shall be inserted, namely:—

"(22A) Any recovery certificate issued by the Presiding Officer under sub-section (22) shall be deemed to be decree or order of the Court for the purposes of initiation of winding up proceedings against a company registered under the Companies Act, 2013 or Limited Liability Partnership registered under the Limited Liability Partnership Act, 2008 or insolvency proceedings against any individual or partnership firm under any law for the time being in force, as the case may be."; 18 of 2013.  
9 of 2008.

(xxiii) in sub-section (24), for the words "endeavour shall be made by it", the following words "every effort shall be made by it to complete the proceedings in two hearings, and" shall be substituted.

33. After section 19 of the principal Act, the following sections shall be inserted, namely:—

"19A. (1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions contained in section 6 of the Information Technology Act, 2000, the Central Government may by rules provide that from such date and before such Tribunal and Appellate Tribunal, as may be notified,— 21 of 2000.

Insertion of  
new section  
19A.

Filing of  
recovery  
applications,  
documents and  
written  
statements in  
electronic  
form.



(a) application or written statement or any other pleadings and the documents to be annexed thereto required to be filed shall be submitted in the electronic form and authenticated with digital signature of the applicant, defendant or any other petitioner in such form and manner as may be prescribed;

(b) any summons, notice or communication or intimation as may be required to be served or delivered under this Act, may be served or delivered by transmission of pleadings and documents by electronic form and authenticated in such manner as may be prescribed.

(2) Any interim or final order passed by the Tribunal or Appellate Tribunal displayed on the website of such Tribunal or Appellate Tribunal shall be deemed to be a public notice of such order and transmission of such order by electronic mail to the registered address of the parties to the proceeding shall be deemed to be served on such party.

(3) The Central Government may by rules provide that the electronic form for the purpose specified in this section shall be exclusive, or in the alternative or in addition to the physical form, therefor.

(4) The Tribunal or the Appellate Tribunal notified under sub-section (1), for the purpose of adopting electronic filing, shall maintain its own website or common website with other Tribunals and Appellate Tribunal or such other universally accessible repositories of electronic information and ensure that all orders or directions issued by the Tribunal or Appellate Tribunal are displayed on the website of the Tribunal or Appellate Tribunal, in such manner as may be prescribed.

*Explanation.*—For the purpose of this section,—

21 of 2000. (a) 'digital signature' means the digital signature as defined under clause (p) of section 2 of the Information Technology Act, 2000;

21 of 2000. (b) 'electronic form' with reference to an information or a document means the electronic form as defined under clause (r) of section 2 of the Information Technology Act, 2000."

34. In the principal Act, in section 20 in sub-section (3), for the words "forty-five days", at both the places where they occur, the words "thirty days" shall be substituted.

Amendment of section 20.

35. In the principal Act, in section 21,—

Amendment of section 21.

(i) for the words "seventy-five per cent.", the words "fifty per cent." shall be substituted;

(ii) in the proviso, for the words "waive or reduce the amount", the words "reduce the amount to be deposited by such amount which shall not be less than twenty-five per cent. of the amount of such debt so due" shall be substituted.

36. In the principal Act, in section 22, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of section 22.

18 of 1891. "(4) For the purpose of proof of any entry in the 'bankers books', the provisions of the Bankers' Books Evidence Act, 1891 shall apply to all the proceedings before the Tribunal or Appellate Tribunal."

37. In the principal Act, after section 22, the following section shall be inserted, namely:—

Insertion of new section 22A.

"22A. The Central government may, for the purpose of this Act, by rules, lay down uniform procedure consistent with the provisions of this Act for conducting the proceedings before the Tribunals and Appellate Tribunals."

Uniform procedure for conduct of proceedings.



Amendment  
of section 25.

38. In the principal Act, in section 25,—

(i) after clause (a), the following clause shall be inserted, namely:—

"(aa) taking possession of property over which security interest is created or any other property of the defendant and appointing receiver for such property and to sell the same;"

(ii) after clause (c), the following clause shall be inserted, namely:—

"(d) any other mode of recovery as may be prescribed by the Central Government."

Amendment  
of section 27.

39. In the principal Act, in section 27, for sub-section (I), the following sub-section shall be substituted, namely:—

"(I) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Presiding Officer, may by an order, grant time for payment of the amount, provided the defendant makes a down payment of not less than twenty-five per cent. of the amount specified in the recovery certificate and gives an unconditional undertaking to pay the balance within a reasonable time, which is acceptable to the applicant bank or financial institution holding recovery certificate.

(IA) The Recovery Officer shall, after receipt of the order passed under sub-section (I), stay the proceedings until the expiry of the time so granted.

(IB) Where defendant agrees to pay the amount specified in the Recovery Certificate and proceeding are stayed by the Recovery Officer, the defendant shall forfeit right to file appeal against the orders of the Tribunal.

(IC) Where the defendant commits any default in payment of the amount under sub-section (I), the stay of recovery proceedings shall stand withdrawn and the Recovery Officer shall take steps for recovery of remaining amount of debt due and payable."

Insertion of  
new section  
30A.

40. In the principal Act, after section 30, the following section shall be inserted, namely:—

"30A. Where an appeal is preferred against any order of the Recovery Officer, under section 30, by any person from whom the amount of debt is due to a bank or financial institution or consortium of banks or financial institutions, such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal fifty per cent. of the amount of debt due as determined by the Tribunal."

Deposit of  
amount of  
debt due for  
filing appeal  
against orders  
of the  
Recovery  
Officer.

Insertion of  
new section  
31B.

41. In the principal Act, after section 31A, the following section shall be inserted, namely:—

"31B. Notwithstanding anything contained in any other law for the time being in force, the rights of secured creditors to realise secured debts due and payable to them by sale of assets over which security interest is created, shall have priority and shall be paid in priority over all other debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or local authority.

Priority to  
secured  
creditors.

*Explanation.*—For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016, in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."



Amendment  
of section 36.

42. In the principal Act, in section 36, in sub-section (2),—

(i) clause (a) shall be numbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

"(a) other business or commercial rights of similar nature under clause (jb) of section 2;"

(ii) after clause (c), the following clause shall be inserted, namely:—

"(ca) the form of application and the fee for filing application under sub-section (3) of section 19;"

(iii) in clause (cc), for the brackets, figure and letter "(3A)", the brackets, figure and letter "(3B)" shall be substituted;

(iv) after clause (cc), the following clauses shall be inserted, namely:—

"(cca) the period for filing written statement under sub-section (10) of section 19;

(ccb) the fee for obtaining copy of the order of the Tribunal under sub-section (21) of section 19;

(ccc) the form and manner of authenticating digital signature under clause (a), and the manner of authenticating service or delivery of pleadings and documents under clause (b), of sub-section (1) of section 19A;

(ccd) the form and manner of filing application and other documents in the electronic form under sub-section (1) and manner of display of orders of the Tribunal and Appellate Tribunal under sub-section (4) of section 19A;"

(v) after clause (d), the following clauses shall be inserted, namely:—

"(da) the rules of uniform procedure for conducting the proceedings before the Tribunals and Appellate Tribunals under section 22A;

(db) the other mode of recovery under clause (d) of section 25;"

43. The Indian Stamp Act, 1899 shall be amended in the manner specified in the First Schedule.

Amendment of  
Act 2 of 1899.

44. The Depositories Act, 1996 shall be amended in the manner specified in the Second Schedule.

Amendment of  
Act 22 of 1996.



## THE FIRST SCHEDULE

(See section 43)

## AMENDMENT TO THE INDIAN STAMPACT, 1899

(2 OF 1899)

After section 8E, the following section shall be inserted, namely:—

Agreement or document for transfer or assignment of rights or interest in financial assets not liable to stamp duty.

"8F. Notwithstanding anything contained in this Act or any other law for the time being in force, any agreement or other document for transfer or assignment of rights or interest in financial assets of banks or financial institutions under section 5 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, in favour of any asset reconstruction company, as defined in clause (ba) of sub-section (1) of section 2 of that Act, shall not be liable to duty under this Act."

54 of 2002.

## THE SECOND SCHEDULE

(See section 44)

## AMENDMENT TO THE DEPOSITORIES ACT, 1996

(22 OF 1996)

In section 7, after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) Every depository on receipt of intimation from a participant register any transfer of security in favour of an asset reconstruction company as defined in clause (ba) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 along with or consequent upon transfer or assignment of financial asset of any bank or financial institution under sub-section (1) of section 5 of that Act.

54 of 2002.

(1B) Every depository, on receipt of intimation from a participant, register any issue of new shares in favour of any bank or financial institution or asset reconstruction company or any other assignee of such bank or financial institution or asset reconstruction company, as the case may be, by conversion of part of their debt into shares pursuant to reconstruction of debts of the company agreed between the company and the bank or financial institution or asset reconstruction company.

*Explanation.*—For the purpose of this section, the expressions "asset reconstruction company", "bank", and "financial institution" shall have the meanings assigned to them respectively under clauses (ba), (c) and (m) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002."

54 of 2002.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Additional Chief Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. LVII ] WEDNESDAY, DECEMBER 14, 2016/AGRAHAYANA 23, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 14<sup>th</sup> December, 2016.

No.RPB/274-2016/Act.47-16/E:- The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 08<sup>th</sup> September, 2016, Bhadrapad 17, 1938(Sake)

The following Act of Parliament has received the assent of the President on the 08<sup>th</sup> September, 2016 is hereby published for general information:-

#### THE TAXATION LAWS (AMENDMENT) ACT, 2016

[ACT No. 47 of 2016]

[08<sup>th</sup> September, 2016]

AN

ACT

*further to amend the Income-Tax Act, 1961 and the Customs Tariff Act, 1975.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### CHAPTER I

##### PRELIMINARY

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 2016.

Short title and  
commencement.

(2) Save as otherwise provided in this Act, it shall come into force at once.

#### CHAPTER II

##### DIRECT TAX

##### *income-tax*

43 of 1961. 2. In the Income-tax Act, 1961 (hereinafter referred to as the principal Act in this Amendment of Chapter), in section 2, in clause (19AA), after Explanation 4, the following Explanation section 2. shall be inserted, with effect from the 1st day of April, 2017, namely:—



"*Explanation 5.*—For the purposes of this clause, the reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if such reconstruction or splitting up has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as may be notified by the Central Government in the Official Gazette."

Amendment  
of section  
80JJAA.

3. In the principal Act, in section 80JJAA, in sub-section (2), in the *Explanation*, after clause (ii), the following proviso shall be inserted, with effect from the 1st day of April, 2017, namely:—

'Provided that in the case of an assessee who is engaged in the business of manufacturing of apparel, the provisions of sub-clause (c) shall have effect as if for the words "two hundred and forty days", the words "one hundred and fifty days" had been substituted.'

### CHAPTER III

#### INDIRECT TAX

##### *Customs tariff*

Amendment  
of First  
Schedule.

4. In the Customs Tariff Act, 1975, in the First Schedule,—

51 of 1975.

(a) in Chapter 25, for the entry " 10%" in column (4) occurring against tariff items 2515 1100, 2515 1210, 2515 1220, 2515 1290, 2516 1100 and 25161200 , entry "40%" shall respectively be substituted;

(b) in Chapter 68, for the entry " 10%" in column (4) occurring against tariff items 68021000, 68022110, 68022120, 68022190, 68022310, 68022390, 68022900, 68029100, 68029200 and 6802 93 00, the entry "40%" shall respectively be substituted.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTHI,**  
Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

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#### Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 14<sup>th</sup> December, 2016.

No.RPB/274-2016/Cons.101-16/E:- The following Act of Parliament is republished for general information:-

#### GOVERNMENT OF INDIA

#### MINISTRY OF LAW AND JUSTICE

#### Legislative Department

New Delhi, the 08<sup>th</sup> September, 2016, Bhadrapad 17, 1938(Sake)

The following Act of Parliament has received the assent of the President on the 08<sup>th</sup> September, 2016 is hereby published for general information:-

#### THE CONSTITUTION (ONE HUNDRED AND FIRST AMENDMENT) ACT, 2016.

[CONST. 101 of 2016]

[08<sup>th</sup> September, 2016]

AN

ACT

*further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1.(1) This Act may be called the Constitution (One Hundred and First Amendment) Act, 2016. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. After article 246 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 246A

"246A. (1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

Special provision with respect to goods and services tax.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods or of services, or both takes place in the course of inter-State trade or commerce.



*Explanation.*—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council."

Amendment of article 248.

3. In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.

Amendment of article 249.

4. In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

Amendment of article 250.

5. In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

Amendment of article 268.

6. In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.

Omission of article 268A.

7. Article 268A of the Constitution, as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003 shall be omitted.

Amendment of article 269.

8. In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.

Insertion of new article 269A.

9. After article 269 of the Constitution, the following article shall be inserted, namely:—

Levy and collection of goods and services tax in course of inter-State trade or commerce.

"269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Amendment of article 271.

*Explanation.*—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

(3) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.

(4) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.

(5) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce."

Amendment of article 270.

10. In article 270 of the Constitution —

(i) in clause (1), for the words, figures and letter "articles 268, 268A and 269", the words, figures and letter "articles 268, 269 and 269A" shall be substituted;

(ii) after clause (1), the following clauses shall be inserted, namely:—

"(1 A) The tax collected by the Union under clause (1) of article 246A shall also be distributed between the Union and the States in the manner provided in clause (2).

XIB) The tax levied and collected by the Union under clause (2) of article 246A and article 269A, which has been used for payment of the tax levied by the Union under clause (1) of article 246A, and the amount apportioned to the Union under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2)."

Insertion of new article 279A.

11. In article 271 of the Constitution, after the words "in those articles", the words, figures and letter "except the goods and services tax under article 246A," shall be inserted.

Goods and Services Tax Council.

12. After article 279 of the Constitution, the following article shall be inserted, namely:—

"279A. (1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.



(2) The Goods and Services Tax Council shall consist of the following members, namely:—

- (a) the Union Finance Minister. .... Chairperson;
- (6) the Union Minister of State in charge of Revenue or Finance. .... Member;
- (c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.....Members.

(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and: the States on—

(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;

(b) the goods and services that may be subjected to, or exempted from the goods and services tax;

(c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;

(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

(e) the rates including floor rates with bands of goods and services tax;

(f) any special rate ~~of~~ rates for a specified period, to raise additional resources during any natural calamity or disaster;

(g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and

(h) any other matter relating to the goods and services tax, as the Council may decide.

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One-half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.

(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a Member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.



(11) The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute—

- (a) between the Government of India and one or more States; or
- (b) between the Government of India and any State or States on one side and one or more other States on the other side; or
- (c) between two or more States,

arising out of the recommendations of the Council or implementation thereof."

Amendment of  
article 286.

13. In article 286 of the Constitution,—

(i) in clause (1),—

(A) for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of services or both, where such supply takes place" shall be substituted;

(B) in sub-clause (b), for the word "goods", at both the places where it occurs, the words "goods or services or both" shall be substituted;

(ii) in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted;

(Hi) clause (3) shall be omitted.

Amendment of  
article 366.

14. In article 366 of the Constitution,—

(i) after clause (12), the following clause shall be inserted, namely:—

'(12A) "goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;'

(ii) after clause (26), the following clauses shall be inserted, namely:—

'(26A) "Services" means anything other than goods;

(26B) "State" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;'

Amendment of  
article 368.

15. In article 368 of the Constitution, in clause (2), in the proviso, in clause (a), for the words and figures "article 162 or article 241", the words, figures and letter "article 162, article 241 or article 279A" shall be substituted.

Amendment of  
Sixth Schedule.

16. In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3),—

(i) in clause (c), the word "and" occurring at the end shall be omitted;

(ii) in clause (d), the word "and" shall be inserted at the end;

(in) after clause (d), the following clause shall be inserted, namely:— "(e) taxes on entertainment and amusements."

Amendment of  
Seventh  
Schedule.

17. In the Seventh Schedule to the Constitution,—

(a) in List I—Union List,—

(i) for entry 84, the following entry shall be substituted, namely:—

"84. Duties of excise on the following goods manufactured or produced in India, namely:—

(a) petroleum crude;

(b) high speed diesel;

(c) motor spirit (commonly known as petrol);

(d) natural gas;

(e) aviation turbine fuel; and

(f) tobacco and tobacco products."

(ii) entries 92 and 92C shall be omitted;

(b) in List II—State List —

(i) entry 52 shall be omitted;

(ii) for entry 54, the following entry shall be substituted, namely:—



"54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.";

(Hi) entry 55 shall be omitted;

(iv) for entry 62, the following entry shall be substituted, namely:—

"62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.".

18. Parliament shall, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years.

Compensation to States for loss of revenue on account of introduction of goods and services tax.

19. Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.

Transitional provisions.

20.(1) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty:

Power of President to remove difficulties.

Provided that no such order shall be made after the expiry of three years from the date of such assent.

(2) Every order made under sub-section (/) shall, as soon as may be after it is made, be laid before each House of Parliament.

Sd/-

**Dr. G. NARAYANA RAJU,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

**C. J. GOTH,**  
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.